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ABSTRACT

This report explains, evaluates, and recommends the passage of Senate Bill 991 establishing a Federal Department of Education. The purpose and history of the legislation are presented along with the reasons for establishing a Department of Education and a summary of the legislation and hearings. Areas of discussion included are citizen involvement; Office for Civil Rights; department role in elementary, secondary, and postsecondary education; Office of Occupational, Adult, and Community Education; vocational rehabilitation; child nutrition; Department of Defense Overseas Dependents Schools; Indian education; science education; HUD college housing program; Intergovernmental Advisory Council on Education; Federal Interagency Committee on Education; research and improvement in education; HEW's special institutions; and the USDA Graduate School. Committee action is summarized as well as roll-call votes in committee. A section-by-section analysis of the bill is included along with evaluation of regulatory impact, estimated cost of the legislation, and text of the law as reported. Changes in existing law are indicated as well as additional views of committee members. (Author/JM)

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Calendar No. 1000

95TH CONGRESS
2d Session } SENATE { REPORT
No. 95-1078

DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 991

TO ESTABLISH A DEPARTMENT OF EDUCATION AND FOR OTHER PURPOSES

together with

ADDITIONAL VIEWS

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

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AUGUST 9 (legislative day, MAY 17), 1978.—Ordered to be printed

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DEPARTMENT OF EDUCATION ORGANIZATION ACT OF 1978

August 9 (legislative day, May 17), 1978.—Ordered to be printed

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Mr. Ribicoff, from the Committee on Governmental Affairs, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 991]

The Committee on Governmental Affairs, to which was referred the bill S. 991 to establish a Department of Education in the executive branch, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill, as amended, do pass.

Purpose of the Legislation

The basic purpose of S. 991 is to provide for the establishment of a Federal Department of Education. Today, there are more than 300 separate Federal education programs involving expenditures reaching nearly $25 billion. The Federal presence in education is substantial. Over 40 Federal departments and agencies are involved in education grants, services, and regulations.

The late Senator Hubert H. Humphrey, in discussing the need for a Department of Education noted last year;

> It is necessary to have a more efficient mechanism for the coordination of these numerous programs in a sensible, workable, and effective framework.

The purpose of S. 991 is to structure the Federal education effort in such a way that Federal education programs are able to adapt to the changing needs of the nation. S. 991 provides a mechanism for the large array of Federal programs to be effectively coordinated. Its development reflects the following:

> Education is important to the total learning population—it is a continuing process and includes lifelong and noninstitutional learning.
>
> The Federal education effort should enhance the ability of public and nonpublic organizations as well as State and local education agencies to improve the quality of education and equality of access for all individuals.
>
> The Federal education effort should be designed to help meet the future educational needs of our Nation.

The purpose of the bill is to make the Federal education effort more effective and coordinated.

Education in the United States has traditionally been a function of State and local governments and private institutions. Over the past 25 years, education has commanded the largest single share of State and local governmental expenditures—38 percent. The delivery of edu- institutions. The intention of S. 991 is to preserve this prerogative. There is a need to insure that the Federal presence in education should be supportive, helpful and effective. Not only would the Department of Education increase the visibility and attention given to education needs at the Federal level, but it is designed to increase the participation of families, communities, public and private schools, and state and local governments in this process.

The Department is thus designed around the following purposes:

(1) To insure that education receives appropriate emphasis at the Federal level. By creating a Cabinet Department of Education, effective management, coordination, and leadership in Federal programs can be substantially improved. The relatively low bureaucratic status of the Office of Education means that education receives less attention from the Cabinet and the President. The large number of existing Federal education programs has created management problems at the Federal, State, local, and institutional levels. The scattering of programs across Federal agencies has resulted in poor coordination in addition to multiple, duplicative and even conflicting regulations. Fragmentation at the Federal level has led to piecemeal approaches to education and education-related problems.

(2) To assist the Federal effort in coordinating education activities and programs through interagency cooperation, technical assistance, and evaluation of program effectiveness.

The Secretary will be responsible for education programs within the Department. Additionally, the Secretary will head the Federal Interagency Committee on Education which would insure close coordination of Federal education activities to facilitate the resolution of common problems and promote effective planning and management of such activities.

In addition, the Secretary will provide technical assistance to education programs of other Federal departments and evaluate the effectiveness of education programs.

(3) To continue and strengthen the Federal commitment to insuring access to equal education opportunities. Equal educational opportunity has been and must remain a major educational goal of the Federal Government.

The Federal Government has acted to insure equality of educational opportunity for every American regardless of race, sex, age, ethnic heritage, economic disadvantage, or handicapping condition:

Racial minorities.—Through compliance efforts, technical assistance, and financial assistance the Federal Government has promoted racial desegregation.

Handicapped.—Through Public Law 94–142 (the Education for All Handicapped Children Act) and section 504 of the Rehabilitation Act of 1972, the handicapped are guaranteed an appropriate education.

Language minorities.—Several Federal programs help to deal with the problems of children with limited English language skills.

Women.—Several Federal programs, and statutes such as the Women's Educational Equity Act, and title IX of the 1972 education amendments, are designed to help end sex discrimination.

Compensatory education.—Title I of the Elementary and Secondary Education Act has provided compensatory education for the economically disadvantaged.

Access to higher education.—The Higher Education Amendments of 1972 began to give students from low-income families access to higher education.

Native Americans.—A number of Federal programs in the Office of Education and Bureau of Indian Affairs make it possible for Indians, Alaska Natives, and Aleuts to receive adequate education services.

Migrant children.—The Federal Government provides a variety of services for migrant children.

As a result ofthese and other Federal initiatives—increased access to postsecondary education, bilingual education, and the education of all handicapped children—schools and colleges have dramatically increased their efforts to meet the educational needs of children and youth, particularly those from poor families and minority backgrounds.

S. 991 insures the continuation and strengthening of the Federal commitment to insuring equal educational opportunities for every individual regardless of race, sex, age, ethnicity, economic disadvantage, or handicapping condition. In conjunction with this responsibility, it establishes an Office for Civil Rights whose director would report directly to the Secretary. To emphasize the importance of civil rights compliance, the director's position is upgraded from the present GS–18 level to an executive level IV.

(4) to supplement and complement the efforts of State, local, and tribal governments, the private, public, and nonpublic institutions, education research institutions, community organizations, and parents and students to improve quality of education.

S. 991 recognizes that Federal education policies should be founded on the recognition that Federal, State, and local governments, tribal governments, public and nonpublic institutions, communities, parents, and students must be participants in the Federal education process.

The bill establishes an Intergovernmental Advisory Council on Education. The Council would conduct studies and make recommendations to the Secretary and to the President and, where appropriate, to the Congress for improving the intergovernmental system for developing and carrying out educational policies.

The Council is designed to supplement and complement State and local efforts to meet the Nation's education needs.

Assigned within the Department is a level IV officer to perform intergovernmental policy and relations functions. The officer would have responsibility for assuring that Federal education policies are supportive of the various interests involved in the intergovernmental process.

(5) To encourage the increased involvement of parents, students, and the community in the decisionmaking process, including the development and improvement of education programs and services.

A higher level of citizen participation in the education decisionmaking process will serve to substantially increase public confidence in our educational system.

S. 991 recognizes the need for increased citizen involvement by providing for an effective structure to insure citizen, parent, and student participation in educational programs and to monitor such participation in programs where it is required by law.

(6) To assist in promoting improvements in the quality of American education in basic skill development, educational excellence, and lifelong learning opportunities.

The importance of education to the American people remains high. Yet, at the same time, concern over the lack of quality education is more and more evident. This is demonstrated by concern over declining student achievement, as measured by scholastic aptitude tests and decreased public confidence in the quality of education.

The bill provides a structure to assist in promoting the quality of and the relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities. It specifically provides for assistant secretaries for the major education functions to be performed by the Department—these include the areas of Indian education, education and training programs for the handicapped, child nutrition, elementary and secondary education, postsecondary education, occupational, adult and community education, and research and improvement.

(7) To broaden the approaches to meeting educational needs by increasing dialogue among schools, parents, communities, the work place, the home, and other related institutions.

There is a need for a wide diversity of approaches to education. Although the school has been traditionally the classroom, other more diverse methods of achieving educational experiences are emerging. More services provided by community and private institutions fill the gap the schools fail to address. Increased rates of high school dropouts and unemployed youth are symptomatic of the need for more diversity in education approaches for youth. There is an increasing need for parents to become more involved in their children's education. The wide range of other services offered to children within the school setting are important for achieving the total educational development of the child. Such factors as health and nutrition are important components of the school setting.

S. 991 provides a structure for improving the relationships between education and work, through such programs as vocational and career education and related training programs. It creates an Office for Occupational, Adult, and Community Education headed by an Assistant Secretary, which can serve as the link between the wide array of educational services offered the individual in the workplace and community.

The relationships among parents, schools, business, labor, and communities will be strengthened by such programs as community schools and adult education, which would be administered by this Office.

(8) To provide assistance in the area of research relating to human development, and learning systems that complement education; and to share findings with State, local, and tribal officials public and nonpublic institutions, community organizations, parents, and students.

The bill establishes an Office of Educational Research and Improvement, headed by an Assistant Secretary which would have the responsibility over a wide range of research programs administered by the Department.

With the establishment of this Office, the committee recognizes the need to focus more directly on the Federal Government's efforts to provide help and support of research, development, dissemination, demonstration, and training activities associated with a wide spectrum of educational research activities. These activities include science education, the improvement of quality teaching and the advancement of learning, and the improved development and utilization of programs and facilities associated with technology and telecommunications delivery systems.

(9) To improve the design and management of education and related programs by simplifying Federal procedures and administrative structures and by eliminating unnecessary and duplicative burdens, including unnecessary paperwork, on the recipients of Federal funds.

The bill assures that the Federal role supplements and complements the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated needs of those agencies.

The Department will be responsible for reducing Federal program and reporting requirements to assist the activities of State and local governments and public and nonpublic education agencies.

(10) To establish mechanisms where educational institutions may bring their problems to the attention of appropriate departments and make recommendations to insure the continuing vitality of such institutions. Postsecondary education has become more diverse. Between 1975 and 1978 over 22 million people were enrolled in postsecondary courses and 11.3 million students participated in higher education. Public and private institutions at all levels have been increasing. S. 991 requires the Secretary to assess the contributions of educational institutions and to study ways of insuring their continued vitality as well as their adapting roles to society's changing needs.

It is the committee's intention that in the creation of the Department, that the rights of State, local, and tribal governments, and public and nonpublic educational institutions shall be maintained and protected in the areas of educational policies, administration of programs, and selection of curricula and program content.

THE NEED FOR A DEPARTMENT OF EDUCATION

Having concluded 1½ years' consideration, including 10 days of hearings and testimony from more than 100 witnesses, the committee believes there is a strong need for the creation of a separate, Cabinet-level Department of Education in the Federal Government.

Generally, the committee finds that:

The low status of education in the Federal Government does not give rightful recognition to education as an important, fundamental national activity;

The Federal Government is not now adequately prepared, in either structural or administrative terms, to assist American education in dealing forthrightly with today's tremendous educational challenges and problems;

The Department of Health, Education, and Welfare has serious institutional weaknesses and deficiencies which require such a major reorganization change—the creation of an education agency separate from HEW;

The scattering and fragmentation of Federal education programs produces burdensome, duplicative, and time-consuming paperwork and regulations; and

There exists today no one high-level, visible, or accountable official in the Federal Government who is concerned with education and who has the ability to effectively coordinate the hundreds of education programs at the national level.

EDUCATION IS IMPORTANT TO THE NATION

The process of education is basic to our society and to the proper functioning of democratic government. When the people are responsible for making decisions affecting their entire society, they must be sufficiently educated to make informed decisions. Democracy depends for its very existence on a highly educated citizenry. And, because the people are involved in decisionmaking at all levels of government in the United States, education is and should be of vital concern to Federal, State, and local governments.

Education has always been an important aspect of our lives. Since the beginning of time, few nations have stressed the importance of education as much as the United States. Few nations, until more recent times, have achieved the near total rates of participation in the educational system that America has achieved. Education in the United States is universally available. Every American citizen is required by law to attend school.

Traditionally, the American people have held a confirmed belief and respect for education as the path upward. A recent Harris Poll last year showed 90 percent of the public felt "achieving quality education for children" was very important. Another survey revealed at least 75 percent of the American people still believe a "free, unlimited education" will be a major contributor to America's greatness in the future.

Education is a major function that involves more people than any other. More than 50 million persons—fully one-quarter of the population—are directly involved in education.

The American people invest more money in education than in our national defense. Total education spending in the United States today exceeds $150 billion—nearly 10 percent of the gross national product.

For State and local governments, education is the single largest expenditure. States and localities are now spending almost 40 percent of their annual budgets to pay for the cost of public education.

Despite problems and crises brought on by our ever-changing society and technology, Americans continue to seek more education to cope with an uncertain future. The facts show this trend clearly:

Half of all children 3 to 5 years of age are now enrolled in preschool programs;

Nearly 80 percent of all 17-year-olds now complete high school, compared with 50 percent in 1940; and

Enrollment in institutions of higher education has jumped from 3.8 million in 1960 to more than 11 million today.

While the responsibility for educational policies and curricula must continue to reside with States, localities, and private institutions, there is a legitimate Federal interest, and a defined role, in education. Presently, there are important programs which the Federal government does carry out in the field of education:

Guaranteeing equal access to education;

Providing assistance for educating the handicapped or disadvantaged;

Conducting comprehensive research into new ideas or trends or problems in education;

Providing valuable complementary financial assistance to States and localities so as to insure the people are receiving a quality education; and

Maintaining significant higher education loan and grant programs to open doors for all students desiring to continue their education beyond public school.

The committee believes the improvement of the Federal education effort must be a major priority. But education will never be a priority as long as it is smothered in layers of bureaucracy, fragmented across several Federal agencies, and diminished by a severe lack of attention in our National Government.

The importance of education to the success of our country will continue to grow.

THE TROUBLED STATE OF AMERICAN EDUCATION

The committee's consideration of the issue of whether to establish a separate Department of Education comes at a time when the problems in education have reached near-crisis proportions.

While Americans continue to strongly believe in education as the key to success and fulfillment, their confidence in the present capabilities of our educational institutions is down sharply. A recent Gallup Poll found 60 percent of the American people feel the quality of education in our schools is declining.

This low level of confidence stems from a variety of sources. Perhaps most disturbing was the revelation last year by the College Entrance Examination Board that overall scores on the Scholastic Aptitude Test (SAT) showed a long, significant decline from 1967 through 1977. In effect, the report said our students were leaving public schools with deficiencies in basic skills. A subsequent college board study, conducted by Willard Wirtz, noted:

> More and more high school graduates show up in college classrooms and employers' personnel offices with barely a speaking acquaintance with the English language and no writing facility at all.

Recent Federal studies have shown students are becoming increasingly disillusioned with their public schools, and as a result, absenteeism is on the rise. Educators are trying to institute a wide variety of different tactics to either lure students back to school, or penalize them for being unnecessarily absent.

A perplexing problem for school officials is reconciling the situation of declining enrollments and increasing costs. As the birth rate in the U.S. continues its steady downtrend, inflation has driven up the cost of education. Instead of being able to save money where fewer students are attending school, a local school district today is actually paying more than before.

The American taxpayer is rebelling against rising property taxes, which are used predominantly in the United States to finance public education. States and localities spend approximately 40 percent of their budgets for education.

While a Department of Education in and of itself could not solve education's tremendous problems, its primary purpose will be to supplement and complement States, localities and private institutions. The Nation's education officials will be hindered in their performance by an ill-equipped, fragmented, and confusing Federal education structure. The Federal Government should assist States and localities in providing a good education for all.

The Committee believes the troubled state of education in our country today would be better aided by the creation of a Department of Education.

HEW'S INSTITUTIONAL DEFECTS

The Department of Health, Education, and Welfare is the largest Cabinet department in the Federal Government. Its budget will rise to $180 billion this year—more than one-third of the entire Federal budget.

HEW's more than 325 programs inevitably touch nearly every living American. Social security, medicare, medicaid, aid to families with dependent children, and a host of other comprehensive programs serve most of the Nation's 220 million citizens. They are all vital to the daily survival of many people. HEW's mandate to safeguard the health and welfare of the American people is an awesome responsibility.

But HEW also has important responsibilities in the field of education. In its examination of the history of HEW, the Committee has found education is often the victim of neglect and of poor interdepartmental competition with massive health and welfare programs.

HEW's size alone causes serious institutional weaknesses which cannot be remedied through any amount of in-house reorganization.

In the last 20 years, the Federal Government's role in health and welfare has expanded 10 times faster than that of education. Out of HEW's $180 billion budget, at least $168 billion will be expended for health and welfare. The remaining $12 billion makes up the budget of the Education Division. Thus, education issues are dominated by health and welfare concerns.

The committee believes, however, the creation of a Department of Education will not result in any dramatic or unusual increases in education spending. On the contrary, the Congress will be better able to clearly evaluate and assess potential education budget allotments on their own merits.

Putting health, education, and welfare together in one Cabinet department in order to develop a comprehensive human services approach in government has not worked in the past at HEW. The facts indicate it will not work in the future. No other country in the world places these three components together in one governmental agency.

In testimony before the committee, Education Division employees said they rarely conduct discussions or even have contact with the other 150,000 employees who work for HEW. Most of the six former U.S. Commissioners of Education who testified before the committee in October 1977 agreed they were involved more in coordination with those education programs outside HEW, such as the school lunch programs in USDA or the CETA programs in the Labor Department. Rufus Miles, Jr., Princeton University professor and former director of HEW administration for more than 12 years, told the committee:

> In all my years at HEW, I never saw any significant coordination of programs and functions between the Office of Education and the other components of HEW. This coordination * * * is simply a figment of the imagination.

Former HEW Secretaries have all been invariably, men of high caliber, great intellect, and boundless energy. But HEW's responsibilities in health and welfare are so extensive that the HEW Secretary simply does not have sufficient time to devote to education. President Carter recently surprised the nation by observing the Cabinet official who discussed education with him most was the Attorney General.

The committee thus finds that the overall mission of HEW has changed so substantially since its formation 25 years ago that education is almost "out of place" in that Department. Education is operating separately and distinctly from health and welfare, and benefits little from nonexistent "linkages" to them.

The committee believes by the creation of a separate Department of Education, the administration of, and attention given to, health, education and welfare will improve significantly. Our Nation's health and welfare programs are also important and should not be neglected. By establishing an Education Department, we would be lifting another burden off the back of the HEW Secretary, thereby leaving him or her more time to devote to important health and welfare services.

The creation of a Department of Education is a sound administrative and managerial move. It is important to point out the American

Society for Public Administration, for the first time in its history, has endorsed the creation of a Cabinet department—the Department of Education:

> The addition of another Cabinet department would not unduly stretch the President's span of major organizational control. On the other hand, coordination of educational programs to minimize unnecessary administrative burdens and expense for educational institutions and to rationalize inconsistent educational policies would be facilitated if a Cabinet official were given this as a major assignment.

But, the Secretary of Health, Education, and Welfare is not capable of achieving this coordination, because he or she is institutionally restrained in the difficult assignment of coping with health and welfare matters, as well.

THE SCATTERED, FRAGMENTED FEDERAL EDUCATION EFFORT

This year, the Federal Government will spend more than $25 billion on education in one form or another. But this considerable sum comes from over 300 different programs which are scattered among nearly 40 different Federal agencies.

The fragmentation of Federal education programs means there are many voices in Washington speaking for education. There is no one official out front to take the lead, to have the authority to achieve meaningful coordination of our education effort.

The committee believes there must be effective coordination of this myriad of education programs. There should be one, high-level official who is assigned the task of overseeing the Federal education effort to prevent duplication and inefficiency. Creation of a Department of Education, with a Cabinet Secretary as its head, will go a long way toward achieving this badly needed coordination.

Fragmentation's most harmful attribute is the inordinate amount of burdensome, time-consuming, and duplicate paperwork and regulations. For example, most schools qualify for aid from both the U.S. Office of Education and the U.S. Department of Agriculture. The child nutrition and school lunch programs in USDA have data and accounting requirements, funding cycles, compliance procedures, and eligibility standards which all differ from those of the programs in OE. The result of this sort of fragmentation, according to the Council of Chief State School Officers, is that States and localities are finding themselves spending nearly 40 percent of their time filling out reports for the Federal Government—which gives out only 8 percent of all education costs. One State superintendent, Dr. Joseph Cronin of Illinois, told the committee his office of education employs 20 individuals—at an average salary of $15,000 annually—just to assist in the preparation and presentation of Federal reports.

With 40 different Federal agencies involved substantially in education, the situation today is one where each agency is promulgating its own rules, its own regulations, and its own paperwork requirements. There is inevitably some overlap and duplication.

S. 991, as reported by the committee, will achieve a significant amount of consolidation of widely scattered Federal education programs. Altogether, more than 170 programs will be included in the new Department. The committee strongly believes such a broadly based Department of Education will greatly enhance chances for beneficial reductions in paperwork and regulations, and in overhead costs for States and localities.

While the Department of Education will represent an important step towards consolidation of Federal education services, another 100 education programs will continue to exist in other agencies, mainly because their missions are integrally related to the functions of the agencies in which they reside. Yet coordination between these programs and those of the Education Department will continue to be important.

The Federal Interagency Committee on Education, (FICE), could serve as a useful tool for the Secretary of Education in his or her coordination efforts. To date, the successes of FICE have been few. The Committee was originally authorized by an executive order issued by President Johnson in 1964. Clearly, the problem with FICE has been its low-level status. Federal departments and agencies have often designated representatives to the FICE who rank well below policy level.

But under the new Department of Education, FICE would be headed by the Secretary, and other Federal agencies would be specifically required to appoint high-ranking officials to the Committee. This elevation will insure more effective coordination by placing it at higher levels where the decisions are made.

By consolidating education programs, reducing paperwork and redtape, and improving coordination between agencies, the Department of Education will make great inroads in remedying a confusing and fragmented Federal education effort.

THE IMPORTANCE OF CABINET STATUS FOR EDUCATION

Improved management of Federal education programs is needed within the Federal Government now more than ever. HEW's institutional deficiencies have thwarted it for too long. The present crisis-like problems in education demand it. And fragmented Federal education programs have gotten out of hand.

Congress and the American people need a highly visible, responsible, high-level Federal official who can be held accountable for the successes or failures of educational programs and policies on the Federal level.

Education needs a strong advocate in Washington to speak for its needs and to assist in solving its problems.

But effective management does not mean "more control." The responsibility for education policy and curriculum will remain at State, local and private levels. Instead, better management by a Secretary of Education means improved accountability, coordination, and advocacy. Each of these is important if the Federal Government is to make a helpful contribution in assisting American education. The committee believes a Department of Education can provide valuable and precious assistant to States, localities, and private institutions without infringing on their constitutional right to determine their individual educational needs and policies.

As the Federal education effort continues to expand, and the pressures on education continue to mount, the importance of Cabinet status for education becomes clearer. Presidential involvement increases. For too long, American Presidents have had difficulty becoming involved in assisting education programs at the Federal level. Most of them have had little contact with their education officials.

The position of U.S. Commissioner of Education is such a frustrating job that sometimes the most capable and qualified individuals are not attracted to it. In the last 12 years, testimony presented by Dr. Samuel Halperin cited the fact that the commissionership has changed hands 13 different times. It is a revolving door that turns rapidly. The Commissioner has little advocacy in the system. He is afforded almost no opportunity for policy input. His decisions and recommendations on education budgets are usually overruled. The Commissioner of Education is buried in the HEW bureaucracy. He rarely sees the HEW Secretary, much less any other high-level official.

In 1972, Congress attempted to elevate the status of education in HEW by establishing the post of Assistant Secretary for Education in the Department. Although Congress made the Assistant Secretary the head of education, little in the way of responsibility was assigned the new official. Most programs remained under the purview of the Commissioner. Today, education responsibilities with HEW are seriously fragmented between a Commissioner and an Assistant Secretary.

Who heads the HEW Education Division? There is no clear answer. In testimony before the committee, Barbara Kemp, president of the union representing the Education Division employees, said the confusion has reached the point where employees, if they want to resign, now address their letters, "To Whom It May Concern."

Through the creation of the Department of Education, the problem of fragmented leadership within HEW would be corrected immediately. For the first time in nearly a decade, education programs would be administered from a clearly ordered, well-organized structure.

The Secretary of Education would clearly be the Federal official for education. Lines of authority and of responsibility within the Federal education structure would be defined. People there would know to whom they report. Administratively, the change would be a significant improvement over the existing situation.

Cabinet officers carry weight in Washington. They can bring problems to light easily. They can bring to the attention of Congress and of the President education matters which are ever changing.

Cabinet status enables the Secretary to better coordinate Federal education programs.

Cabinet status is a step toward increasing administrative efficiency—both for education and health and welfare.

And, giving education Cabinet status will attract more qualified persons to serve in education programs where before others have been turned away by the frustrations of the jobs.

Education deserves to become the 13th member of the President's Cabinet.

HISTORY OF THE LEGISLATION

Efforts to create a Cabinet-level Department of Education in the Federal Government have been ongoing, often sporadically, for the past 125 years.

In March [illegible]67, Congress created a non-Cabinet Department of Education, primarily to collect statistics and other relevant data on the condition of American education. Unfortunately, this non-Cabinet agency never really got off the ground. Its budget was less than $15,000. It had less than 10 clerks and existed for only slightly more than 1 year. The Department was subsequently given bureau status and placed within the Department of the Interior for the next 70 years.

In 1939, the U.S. Office of Education was transferred from the Interior Department to the new Federal Security Agency created by President Franklin Roosevelt.

The Office of Education has remained in the Department of Health, Education, and Welfare since its creation in 1953 under the Eisenhower administration.

From 1908 through 1951, more than 50 pieces of legislation to establish a separate, Cabinet-level Department of Education were introduced in Congress. In that time period, nearly 20 days of hearings were held on several bills, and at least six were actually reported to either the House or the Senate floor for final consideration. No action, however, was ever taken beyond the committee stage.

Yet, education advocates gave much effort and consideration in the first half of the 20th century to the creation of a separate Education Department. As far back as February 1910, then U.S. Commissioner of Education Elmor Brown, in testimony before a congressional committee on the issue, predicted:

> A time will be reached when the erection of such a department of the Government as this measure contemplates will be necessary to good administration.

In a December 1923 message to Congress, President Calvin Coolidge gave his support to the concept of the separate Department:

> Having in mind that education is peculiarly a local problem, and that it should always be pursued with the largest freedom of choice by students and [illegible] nevertheless, the Federal Government might well give the [illegible] of its counsel and encouragement more freely in this direction. I do consider it a fundamental requirement of national activity which is worthy of a separate department and a place in the Cabinet.

And in 1931, the National Advisory Committee on Education recommended the creation of a Cabinet Department of Education:

> No bureau chief or head of a detached or independent establishment can give the equal access to the Chief Executive and that equality of approach to the heads of all departments concerned essential to the effective total operation of education of education in government. The presence in the government of an officer of cabinet rank would insure that effective contribution of education which is essential to the future political and social welfare of the nation.

The Federal effort in education continued to grow dramatically after the creation of HEW in 1953. The budget for the Office of Education jumped from approximately $400 million then, to $4 billion during President Johnson's Great Society initiatives, to more than $10 billion today.

And as the Federal effort increased, so did calls in Congress for the creation of an Education Department separate from HEW. From 1953 to the present, more than 80 pieces of legislation were introduced in Congress and a large number of authoritative studies were conducted.

Under the Johnson administration, three separate task forces seriously studied the concept of a Cabinet Department of Education. The 1964 Task Force on Government Reorganization favored an Education Department:

> Because the schools have been afraid of Federal domination, the Government has never had a comprehensive policy for the advancement of education and research. But it is unrealistic to think we can protect the freedom of education by pretending to ignore it.

Also in 1964, a study team headed by then HEW Secretary John Gardner was split between creating an independent Office of Education at the Presidential level and creating a Cabinet department. Still another group, the Heineman task force, concluded in 1967 that a Department of Education was not necessary at that time.

Much attention was focused on the introduction of S. 100 (the Department of Education Act) in January 1965 by Senator Ribicoff. A former Secretary of Health, Education, and Welfare, Senator Ribicoff said a Department of Education was necessary because education was not receiving the attention it deserved in the burgeoning and increasingly unmanageable HEW Department. The Ribicoff bill has been reintroduced in every Congress since then.

The 1970's brought a renewed interest in the establishment of a Cabinet-level Department of Education. In the 1972 Presidential campaign, the Democratic candidate, Senator George McGovern, announced his support for giving education Cabinet status. In 1976, the Ford Foundation and the American Council on Education sponsored a landmark study on the issue, authored by Rufus Miles, Jr., formerly HEW director of administration throughout the 1960's. The Miles study gave strong backing to the creation of a Department of Education.

President Carter, throughout his 1976 campaign for the Presidency, pledged that in his proposed reorganization of the Federal Government, he would create a Department of Education.

In March 1977, Senator Ribicoff again introduced his legislation. This time, however, more than half of the members of the U.S. Senate joined him in cosponsoring the bill, S. 991. In the U.S. House of Representatives, nearly 30 different pieces of legislation to create a separate Department were also introduced in the 95th Congress.

Upon taking office, President Carter set up the President's reorganization project to study the Federal Government structure and recommend reorganization proposals. The project's education study team began work in April 1977. In late November 1977, they presented to the President for his review three options: (1) The creation of a Department of Education; (2) the creation of a Department of Education and Human Development; and (3) an uplifting of the status of the Education Division within HEW. The President decided in favor of the establishment of an Education Department, and announced his decision in his state of the Union address in January 1978.

Meanwhile, the Committee on Governmental Affairs opened the first congressional hearings on Department of Education legislation in nearly 25 years. On October 12 and 13, 1977, prominent academic authorities, major national education organizations, and six former U.S. Commissioners of Education testified on the need for the Department.

The committee devoted 10 days of hearings to S. 991 and heard testimony from more than 100 witnesses. Committee markups on S. 991 were held July 11, 14, and 18, 1978. S. 991, the Department of Education Organization Act, was unanimously ordered reported by the committee for full Senate consideration.

SUMMARY OF THE LEGISLATION

PROGRAMS TRANSFERRED

Program	Agency	Fiscal year 1978	
		Staff	Budget
Education Division	Health, Education and Welfare	3, 600	$10.5 billion.
Inspector General	do	117	$3.5 million.
Office for Civil Rights	do	1, 102	$33.3 million.
Special Institutions	do	1	$44.8 million.
Telecommunications Demonstration	do	12	$31 million (fiscal year 1979).
Health Professions Student Loans	do	21	$2[illegible] million.
Nursing Loans and Scholarship Programs	do	24	$31.5 million.
Rehabilitative Services Administration	do	342	$97[illegible].3 million.
Office for Handicapped Individuals	do	14	$689.6 thousand.
Advisory Council on Educational Statistics	do	1. 5	$2[illegible] thousand.
Institute of Museum Services	do	15	$28 million.
Child Nutrition	Agriculture	600	$3.5 billion.
USDA Graduate School	do		
BIA Educational Programs	Interior	5, 892	$291.9 million.
Overseas Dependents' Schools	Defense	10, 000	$350 million.
Law Enforcement Education Loans	Justice	9	$30 million.
Selected Science Education Programs	National Science Foundation	40	$56 million.
College Housing Construction Loans	Housing and Urban Development	3	$111 million (fiscal year 1979).

TITLE I

Title I states the purposes for creating the Department of Education and the congressional findings.

Some of the congressional findings are: Education is fundamental to individual development and national growth; there is a need to insure equal educational opportunity; the primary responsibility of education is that of State, local, and tribal governments, public and nonpublic institutions, families, and communities; the proliferation of Federal programs has created management problems at the Feedral, State, local, and institutional levels; there is a need to improve the quality of education; and the existing structure of the executive branch does not recognize adequately the importance of education.

Some of the purposes of the Department are: To insure education receives the appropriate emphasis at the Federal levels; to provide leadership to Federal efforts to improve quality and access to education; to continue and strengthen the Federal commitment to equal educational opportunity; to supplement and complement the efforts of State, local, and tribal governments, the private sector, public, and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curriculums, decide administrative questions, and choose program content with respect to their educational programs; to encourage parental, student, and community involvement; to promote the quality and relevance of education to individual needs, including basic skills and lifelong learning; to broaden the approaches to meeting educational needs by strengthening relationships among schools, parents, students, communities, the workplace, and other institutions; to improve and simplify the design and management of education programs and eliminating unnecessary constraints, including unnecessary paperwork, on the recipients of Federal funds; and to assess the potential contribution of higher education institutions to improving national education goals. The bill further states it is the intention of Congress to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curriculums and program content.

TITLE II

Title II establishes the Department. It provides for the offices and the officers which administer them. It provides for a Secretary and an Under Secretary. It also provides for the following offices which are headed and administered by Assistant Secretaries carrying the same titles: Office of Indian Education; Office of Child Nutrition; Office of Elementary and Secondary Education; Office of Post Secondary Education; Office of Occupational, Adult, and Community Education; Office of Educational Research and Improvement; and Office of Special Education and Rehabilitative Services. There is also established in this section an Office for Civil Rights, to be administered by a Director (appointed by the President with the advice and consent of the Senate), an Office of Education for Overseas Dependent Children, to be administered by an Administrator, and three additional officers (two executive level IV Assistant Secretary positions and one level V position) to perform staff functions. These functions would include: Intergovernmental policies and relations, public information; planning, evaluation, and policy development; congressional relations; administration and management; and public, parent, and student involvement.

Each Assistant Secretary and the Director of the Office for Civil Rights would be compensated at the rate provided for executive level IV. The Administrator of the Office of Education for Overseas Dependent Children and the additional officer who is not an Assistant Secretary would be compensated at the rate provided for executive level V.

Of the staff functions to be performed by the three additional officers, intergovernmental policies and relations would be performed by one of the level IV Assistant Secretaries and the planning, evaluation, and policy functions would be performed by the other level IV position, in addition to any other duties the Secretary may assign.

This title also provides for an Inspector General, to have the same responsibilities and independence as HEW's Inspector General, and a General Counsel. Each of these officers would be executive level IV's.

The Director of the Office for Civil Rights would be required to submit an annual report to the President, the Secretary, and the Congress on the enforcement and compliance of education-related civil rights laws.

With regard to the Office of Indian Education, the eligibility requirements would not be altered or eliminated for participation in programs previously administered by the Secretary of the Interior or the Department of the Interior. The trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts would not be altered in any way. The actual operation of the schools would be phased in over a 3-year period.

This title also provides for the establishment of an Intergovernmental Advisory Council. The Intergovernmental Advisory Council on Education would provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; and assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation, by State, local, and tribal governments and public and nonpublic educational institutions.

The Council would be composed of 22 members to be appointed by the President. In making appointments, the President would consult with such groups as the National Governor's Conference, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the U.S. Conference of Mayors.

Lastly, this title elevates the existing Federal Interagency Committee on Education by giving it statutory authority and providing that the Secretary will be the chair. The committee would be a mechanism to insure the consistent and coordinated administration of policies and practices by Federal agencies in the conduct of education programs.

TITLE III

This title transfers agencies and functions. The largest amount of programs come from the transfer of the entire Education Division of HEW. There are, however, other transfers from HEW itself which are outside the Education Division. These include the Institute of Museum Services, any advisory committees relating principally to education, responsibilities of the Secretary of HEW for Education programs in the Education Division, the Inspector General functions relating to programs in the new Department, the Office for Civil Rights education functions, budgetary oversight of various special institutions, telecommunications demonstration projects, and health professions and student loans (medical doctors and nurses).

This section also transfers components from other departments and agencies. These include:

From the Department of Agriculture.—The child nutrition and nutrition education programs (other than women, infants, and children feeding programs) will be transferred. These are mainly the school feeding programs—the largest of which is the national school lunch program. This transfer does not include the surplus agricultural commodity program, which will remain in the Department of Agriculture.

From the Department of the Interior.—The programs relating to the education of Indians, Alaskan Natives, and Aleuts will be transferred. These relate to the operation of the schools, the Johnson-O'Malley education assistance, and the continuing education programs.

From the Department of Defense.—The operation and administration of the overseas dependent schools will be transferred. The schools would be phased in over a 3-year period.

From the National Science Foundation.—Programs relating to science education will be transferred. Programs which the Director of the Office of Management and Budget determines relate to fellowships and traineeships integral to the support of scientific research and development, ethical, value and science policy issues or communicating science values to nonscientists will not be transferred.

From the Department of Justice.—Student loan and grant programs known as the law enforcement and education program and the law enforcement intern program will be transferred.

From the Department of Housing and Urban Development.—The college Housing loan program will be transferred.

TITLE IV

This title contains the personnel provisions and general administrative authorities for the Secretary. The bill transfers existing positions in the General Schedule pool to the Department and authorizes 71 new supergrade positions for the Department. Twenty-one of these positions would replace the supergrades already created by statute in the education division. The bill also authorizes the Secretary to appoint professional and technical employees in a number not to exceed one-third of the total number of employees of the Office and 15 temporary supergrades for transittional tasks for a period limited to 3 years after the effective date of this act. Section 412 authorizes the Secretary to delegate functions to employees in the Department where the Act does not provide otherwise. Section 413 establishes the procedure and safeguards of the Secretary's reorganization power within the Department. The other provisions provide standard administrative powers such as power to contract, use facilities, make a report, design a seal, establish a working capital fund, et cetera. The Secretary would also be required to make an annual report on the assessment of educational progress and improved coordination of functions within the Department.

TITLE V

This title is concerned with transitional, savings, and conforming provisions. Some of the significant provisions are: transfer of personnel and funds; termination by operation of law of any existing office or agency all of whose functions are transferred; authorization of the Director of the Office of Management and Budget to make determinations of incidental transfers of personnel and funds relating to transferred programs; the continuation of existing orders, proceedings, et cetera, made before the transfers by parent agencies until modified by the Secretary or the President; conforming amendments; and the redesignation of HEW as the Department of Health and Welfare.

TITLE VI

This title is concerned with interim dates and appointments. It provides for the effective date of the Department as 180 days after the Secretary takes the oath of office and allows appointments of the principal officers and promulgation of regualtions before the effective date.

SUMMARY OF HEARINGS

The committee conducted 10 days of hearings and heard testimony from more than 100 witnesses. These hearings spanned many areas of interest regarding the creation of the Department of Education. Out of the 10 days of hearings, nearly 4 were devoted to the general concept of the Department, 2 were concerned with the transfer of child nutrition programs, another was spent considering the transfer of the Department of Defense Dependents Schools and the science education programs from the National Science Foundation, 1 day each was devoted to the proposed transfer of Head Start and Indian education, and the administration testified on two occasions.

October 12.—The committee opened the first congressional hearings in 25 years on Department of Education legislation. Three panels of witnesses testified. The first, composed of Senators Pell, Domenici, and Bellmon, expressed their support for the creation of the Department and their appreciation to the committee for commencing hearings on the issue.

The second panel was composed of three members of the citizen's committee for a separate Department of Education. James Farmer, Dr. Carl Marburger, and Winfield Kelly, Jr. underscored the long-overdue need for a Cabinet-level Department of Education. They said a Department of Education could give more attention to education in the Federal Government, and involve parents and citizens more in the educational process.

The third panel consisted of academic authorities in education administration. These authorities, Rufus Miles, Jr., Dr. Stephen Bailey, and Dr. Samuel Halperin, emphasized the administrative gains would be made in Federal education programs through the creation of an education department. They testified that education is smothered by the concerns of health and welfare in HEW and competes poorly for budget and personnel.

October 13.—In the first panel, the committee heard from the so-called "big six" national education organizations. Representatives from the National Education Association, Council of Chief State School Officers, National Association of State Boards of Education, National Congress of Parents and Teachers, and the American Association of School Administrators supported the creation of the Department, and emphasized the need for more direction, leadership, and coordination at the Federal level.

The second panel consisted of six former U.S. Commissioners of Education, including Dr. Terrel Bell, Dr. Sidney Marland, Harold Howe II, Francis Keppel, Dr. Sterling McMurrin, and Dr. Samuel Brownell. The former commissioners related to the committee their administrative and policy experiences, observations, and frustrations with the U.S. Office of Education. Messrs. Howe and Brownell urged further study of the concept by the committee before making decisions. Messrs. Bell, Marland, McMurrin and Marland gave their support to the bill, and recommended the committee balance educational interests in the new Department's structure.

March 20.—The first panel testified on the general concept of the Department of Education. It was composed of representatives of two student groups and the president of the American Federation of Government Employees, Local 2607, HEW Education Division. The student groups supported the new Department, and advocated the creation of channels for student input. The union president, Barbara Kemp, illustrated the present lack of leadership and coordination for education matters in the Federal Government. Ms. Kemp told the committee there was low morale in the Office of Education.

The second panel included various experts in the area of school feeding programs, including representatives of the American School Food Service Association. The ASESA's testimony reflected a "fear of the unknown." It listed conditions to be fulfilled before it would support the transfer, including the creation of an assistant secretary for child nutrition, a commitment to expansion and universal school feeding, retention of nutrition education and training of school food service personnel, and maintenance of the provision of surplus and nonsurplus agricultural commodities to the schools. Support for the transfer was expressed by Dorothy Van Egmond, Fairfax County Public Schools food services director, who said USDA regulations are not sympathetic to the working relationships cafeteria managers have with school administrators.

March 21.—Three panels discussed the general concept of the creation of separate Department of Education. The first was composed of witnesses representing concerns of State and local governments. Illinois State Superintendent of Education Joseph Cronin, in supporting the legislation, emphasized the inability of States to deal with Federal education programs and offices at fourth and fifth levels of bureaucracy. The Education Commission of the States cautioned that great care must be taken in creating the Department to insure it will be responsive to State and local needs. Although the panel expressed some concern for the traditional role of the States in education, Pennsylvania State Representative Helen Wise said the creation of the new Department would present an opportunity to improve Federal, State and local relations in education.

The second panel consisted of two organizations opposing the creation of the Department—the American Federation of Teachers, and the U.S. Catholic Conference. Albert Shanker, president of the A.F.T., proposed a reorganization within HEW instead of the separate Department. Shanker argued linkages should be developed between education, and health and welfare. Msgr. Wilfred Paradis, secretary of education for the Catholic Conference, said the new Department might destroy "pluralism" in American education, and might not be sensitive to the need of private education.

Four higher education groups made up the third panel: American Association of Community and Junior Colleges, American Council on Education, State Higher Education Executive Officers, and American Association of University Professors. Each group, with the exception of ACE, supported the new Department, and urged that a high-level official in the new Department be established to address the needs of higher education. The ACE, while not taking a formal position on the legislation, also recommended a high-level officer and suggested changes in the bill to insure effective coordination of Federal education programs.

April 14.—James McIntyre, Director of the Office of Management and Budget, made the first of two appearances before the Committee to testify on S. 991.

Mr. McIntyre, on behalf of the administration, favored the creation of a Cabinet-level Department of Education. He endorsed S. 991 and its proposed transfers, except for the following recommendations: the option of transferring the National Endowments for the Arts and for the Humanities and the training and youth services programs should be reserved for future consideration. He also suggested that the nursing loan and scholarship program, the health profession student loan program, the law enforcement education program and the internship programs, and the Indian student higher education assistance program should be transferred to the new Department. The administration also recommended the establishment of an intergovernmental advisory council on education. As a general recommendation, the administration believed that programs should be organized around groups served by the Department.

April 18.—The first panel discussed the transfer of the Department of Defense Dependents Schools to the Education Department. I. M. Greenberg, Deputy Assistant Secretary of Defense for Program Management, expressed the DOD's support for the transfer of the school system and said any logistical problems could be worked out with close cooperation between DOD and the new Department. Carl Moore, Overseas Education Association executive director, said it was unreasonable to expect the DOD to have the expertise in running efficiently the schools, and the system should be in a Department whose primary goal is education. Two past presidents of the European Congress of Parents, Teachers and Students expressed concern that the logistical support and military community responsibility for the overseas dependents schools would suffer if the transfer were made.

The second panel directed its attention to the transfer of science education programs from the National Science Foundation to the new Department. Three science groups were concerned that the ties science education has with science in general, and particularly with scientists and research, will be lost if the transfer is made. A representative of the President's science advisor supported the transfer.

April 27.—Originally, S. 991 transferred the Head Start program from the Office of Human Development Services in HEW to the new Department of Education. This provision, however, was deleted in the committee's markup of the legislation. The committee nevertheless devoted one day of hearings to this proposed transfer. Senator Brooke and Representative Chisholm testified that the program operates very successfully now in HEW and should not be tampered with. The fear that educators would not maintain the unique, comprehensive, and parent-involvement approach of Head Start was reflected in testimony by the Children's Defense Fund, National Head Start Association, and the National Congress of Hispanic American Citizens. Support for the transfer was expressed by a representative of the California Department of Education, a Project Head Start coordinator, and a professor of early child development. In addition, James Parham, deputy assistant secretary for human development services, HEW, presented the administration's position of supporting the transfer of Head Start.

May 8.—The committee held a second day of hearings on the issue of the transfer of child nutrition programs to the Department of Education. There were four panels of witnesses who testified.

Carol Foreman, assistant secretary for food and consumer services at USDA, favored the transfer on behalf of USDA and the administration. Ms. Foreman said administering child nutrition programs from the Department of Education would lead to more complete integration of nutrition in the schools. She also said the commodity programs would continue to operate successfully, and would not be affected by the transfer.

Support for the transfer also came from a panel of witnesses comprised of a representative of the Council of Chief State School Officers, the Society for Nutrition Education, and the administrator of the New York City school food services. They said schools would benefit from parallel administration of the child nutrition programs by Federal, State and local education agencies. They also emphasized the opportunity for increased coordination between the classroom and the cafeteria if the transfer were made.

Opposition to the transfer was voiced by a panel of nutrition groups and a panel of commodity groups. The former panel, consisting of the Food Research Action Center, Community Nutrition Institute, Children's Foundation, and the ASFSA, was concerned that educators would not expand the delivery of child feeding programs, and that within the new Department other educational programs would take precedence. These groups also argued that while in the past USDA might not traditionally have been receptive to the programs, recent progress has been made and the transfer is untimely.

The commodity panel, composed of representatives of the National Cattlemen's Association, National Milk Producers Federation, Poultry and Egg Institute, and the American Farm Burau feared the Department of Education would cash out the commodity program. Further, the members of this panel underscored the experience and expertise USDA has in dealing with child nutrition.

May 16.—The committee held a full day of hearings on the transfer of Indian education programs from the Bureau of Indian Affairs to the new Department. A wide divergence of opinion developed among the members of the Indian community present on this issue.

The Navajo Division of Education, the First American Caucus of the National Education Association, the All Indian Pueblo Council, the Mississippi Band of Choctaw Indians, and two Federal officials supported the transfer if certain conditions and safeguards were met, including maintenance of the trust responsibility, preservation of existing eligibility and Indian preference requirements, and continuation of self-determination, among others.

Opposing the transfer were the National Tribal Chairmen's Association, the National Congress of American Indians, the National Indian Education Association, American Indian Higher Education Consortium, Coalition of Indian-Controlled School Boards, Northern Cheyenne Tribe, Minnesota Chippewas, and Affiliated Tribes of Northwest Indians. Their concerns centered on the fear the trust responsibility of the Federal Government would be eroded. They also argued there was little consultation with Indian tribes on the transfer, and the proposed move would be the beginning of the dismantling of the Bureau of Indian Affairs.

The administration's support for the transfer of BIA education functions, along with those of HEW, was presented by James Joseph, Under Secretary of the Interior, and Dr. Gerald Gipp, Deputy Commissioner of Education for Indian Education. The administration pledged its continued commitment to the Federal Government's trust responsibility, and proposed the transfer of the BIA schools be "phased-in" to the new Department over a 3-year period to minimize disruption.

May 17.—Returning to testify on the Committee's tenth and final day of hearings on S. 991 was James McIntyre, Director of the Office of Management and Budget. He was accompanied by Hale Champion, Under Secretary of HEW.

Under Secretary Champion expressed the Department of Health, Education and Welfare's commitment to the creation of the Department of Education. Mr. Champion said education has the size, scope, and character to deserve its own place in the Cabinet, and that better coordination of other educational functions would result.

Mr. McIntyre's testimony outlined the organizational structure of the new Department of Education as envisioned by the administration. His recommendations included: the establishment of a statutorily based intergovernmental advisory council on education, the elevation of the Federal Interagency Committee on Education to the secretariat level, the creation of 14 executive level positions reporting directly to the Secretary, (including an executive level IV position for the Office of Civil Rights), organizing the Office of Inspector General in accordance with the provisions of the Inspector General bill pending before the committee, placing research and improvement in a high-level position, and the establishment of a mechanism to encourage public and parental involvement. The administration further advocated that at least two assistant secretary-level positions should be allocated according to functional lines for programs currently in HEW's Education Division, and the programs that are transferred to the new Department must be moved intact and the leadership of them must come from the pool of 14 executive-level positions.

DEPARTMENT OF EDUCATION HEARINGS: WITNESS LIST

OCTOBER 12, 1977

Panel I

Hon. Claiborne Pell, U.S. Senator, Rhode Island.
Hon. Pete V. Domenici, U.S. Senator, New Mexico.
Hon. Henry Bellmon, U.S. Senator, Oklahoma.

Panel II

James Farmer, Executive Director, Coalition of American Public Employees.

Dr. Carl Marburger, Senior Associate, National Committee for Citizens in Education.

Winfield M. Kelly, Jr., County Executive, Prince Georges County, Md.

Panel III

Rufus E. Miles, Jr., Woodrow Wilson School of Public Affairs, Princeton University.

Dr. Stephen K. Bailey, Harvard Graduate School of Education.

Dr. Samuel Halperin, Former HEW Deputy Assistant Secretary for Legislation.

OCTOBER 13, 1978

Panel I

John Ryor, president, National Education Association.

Dr. Wayne Teague, Chief State School Officers, Alabama State Superintendent of Education; accompanied by Joanne Goldsmith, Member, Maryland State Board of Education, National Association of State Boards of Education.

Grace C. Baisinger, president, National Congress of Parents and Teachers (PTA).

Will D. Davis, president, National School Boards Association.

Frank Dick, immediate past president, American Association of School Administrators, Superintendent of Schools, Toledo, Ohio.

Panel II

Dr. Terrel H. Bell, Commissioner of Higher Education, State of Utah.

Dr. Sidney P. Marland, president, College Entrance Examination Board, University of Utah.

Harold Howe, II, vice president for education, The Ford Foundation.

Francis Keppel, director, Program on Education, Aspen Institute for Humanistic Studies.

Dr. Sterling M. McMurrin, dean, Graduate School, University of Utah.

Dr. Samuel M. Brownell, professor emeritus, Yale University.

MARCH 20, 1978

Panel I

Lawrence Zaglaniczny, executive director, Coalition of Independent College and University Students.

Joel Packer, legislative director, National Student Association/National Student Lobby.

Barbara H. Kemp, president, A.F.G.E. Local 2607 (HEW Education Division).

Panel II

Faith Gravenmier, chairwoman, American School Food Service Association Legislative Committee.

Dorothy Van Egmond, director, food services, Fairfax County Public Schools.

Dorothy L. Finch, supervisor, food services, Granview, Washington School District.

Helen B. McGee, nutrition coordinator, Oklahoma State Department of Education.

Gary Hutchkin, executive director, American School Food Services Association.

MARCH 21, 1978

Panel I

Lubbie Harper, Jr., executive assistant, New Haven Public Schools.

Dr. Joseph M. Cronin, Illinois State Superintendent of Education.

Hon. Helen Wise, member, Pennsylvania State House of Representatives.

Dr. Warren G. Hill, executive director, Education Commission of the States.

Panel II

Albert Shanker, president, American Federation of Teachers.

Msgr. Wilfrid Paradis, secretary, Department of Education, U.S. Catholic Conference.

Panel III

Charles B. Saunders, Jr., director, government relations, American Council on Education.

Dr. Helena B. Howe, chairwoman, board of directors, American Association of Community and Junior Colleges.

Dr. James A. Norton, chancellor, Ohio Board of Regents, Representing State Higher Education Executive Officers.

Dr. Donald L. Robinson, chairman, Task Force on a Separate Department of Education, American Association of University Professors.

APRIL 14, 1978

James T. McIntyre, Jr., director, Office of Management and Budget, accompanied by Patricia Gwaltney, Deputy Associate Director for Human Resources Organizational Studies.

APRIL 18, 1978

Hon. Cecil Heftel, U.S. Representative from Hawaii.

I. M. Greenberg, Deputy Assistant Secretary for Program Management, Department of Defense; accompanied by Dr. Anthony Cardinale, Director DoD Dependent Schools.

Carl D. Moore, Executive Director and General Counsel Overseas Education Association.

Col. Robert F. Comeau, Staff Judge Advocate, U.S. Army, Fort Polk, La., Past President, European PTSA (1973–75).

Lt. Col. Michael J. Scotti, Jr., M.D., U.S. Army Fort Gordon, Ga., Past President, European PTSA (1975–76).

Panel II

Phil Smith, Deputy Associate Director, Office of Science and Technology Policy.

Dr. Arthur H. Livermore, head, Office of Science Education, American Association for the Advancement of Science.

Dr. J. Myron Atkin, dean, College of Education, University of Illinois.

Robert L. Silber, executive director, National Science Teacher's Association.

Melvin Thompson, Executive Director Committee on Minorities and Engineering National Research Council, National Academy of Sciences.

APRIL 27, 1978

Hon. Edward Brooke, U.S. Senator, Massachusetts.

Hon. Shirley Chisholm, U.S. Representative, 12th District, New York.

Jim Parham, Deputy Assistant Secretary for Human Development Services, Department of Health, Education and Welfare; accompanied by Ms. Nancy Amidei, Deputy Secretary, Congressional Affairs and Deputy Under Secretary for Human Development Services.

Panel I

Marian Wright Edelman, Director, Children's Defense Fund.

Dr. Edward Zigler, Yale University.

Nancy Spears, president, National Head Start Directors Association, Lee County Head Start.

Juan J. Gutierrez, National Congress of Hispanic American Citizens.

Panel II

Dr. Ann Taylor, professor, Early Child Development, Carnegie-Mellon University.

Frances Walker, assistant superintendent of public instruction, director, office of child development, California State Department of Education.

Ruth Cumbo, director Prince Georges County Head Start project.

MAY 8, 1978

Hon. Carol Tucker Foreman, Assistant Secretary, Food and Consumer Services, U.S. Department of Agriculture; accompanied by Robert Greenstein, Assistant to the Secretary.

Panel I

Dr. Robert D. Benton, superintendent, public instruction, State of Iowa.

Helen D. Ullrich, executive director, Society for Nutrition Education.

Elizabeth Cagan, chief administrator, New York City School Food Services.

Panel II

Barbara Bodie, Director, The Children's Foundation.

Ellen Haas, Community Nutrition Institute.

Roger Schwartz, director, Food Research and Action Center.

Marie McGlaun, school lunch director, Columbus, Ga., and legislative chairperson, Georgia State School Food Service Association, representing the American School Food Service Association.

David Page, president emeritus, American School Food Service Association.

Panel III

William McMillan, vice president, Government Affairs, National Cattlemen's Association.

Hendrik Wentink, director, Poultry and Egg Institute of America.

Susan Fridy, National Milk Producers Federation.

John Datt, director, Washington Office American Farm Bureau Federation.

MAY 16, 1978

Hon. James Joseph, Under Secretary of the Interior, accompanied by Edward Marich, Acting Executive Officer, Office of Indian Education Programs, B.I.A., and M. Elizabeth Holmgren, Planning Officer, Indian Education Programs, Department of Interior.

Panel I

Dr. Gerald Gipp, Deputy Commissioner of Education, Office of Indian Education, HEW, accompanied by William Blakey, Deputy Assistant Secretary for Legislation (Education) HEW, and William Stormer, Division of School Assistance in federally affected areas, U.S. Office of Education, HEW.

Panel II

P. Samuel DeLoria, National Congress of American Indians.

Patricia Locke and Larry Snake, National Tribal Chairman's Association.

Lionel Bordeaux, president, National Indian Education Association.

Georgianna Tiger, National Indian Education Association.

Billie Nave Masters, chairperson, First American Caucus, National Education Association.

Joseph Dupris, executive director, Coalition of Indian Controlled School Boards.

Leroy V. Clifford, executive director, American Indian Higher Education Consortium.

Panel III

William E. York, chairman, Education Committee Mississippi Band of Choctaw Indians.

Dr. Samuel Billison, director, Division of Education, the Navajo Nation.

Frank Tenorio, secretary-treasurer, All-Indian Pueblo Council.

Joe McDonald, representing Allen Rowland, president Northern Cheyenne Tribe.

Ferdinand Martineau, the Minnesota Chippewas.

Skip Skanen, executive director, Affiliated Tribes of Northwest Indians.

MAY 17, 1978

James T. McIntyre, Jr., Director, Office of Management and Budget; accompanied by Harrison Wellford, Executive Associate Director of Reorganization and Management, and Patricia Gwaltney, Deputy Associate Director for Human Resource Organization Studies.

Hale Champion, Under Secretary, Department of Health, Education and Welfare.

AREAS OF DISCUSSION

CITIZEN INVOLVEMENT

The committee intends that citizen participation in the implementation of Federal education programs be a major function of the Department.

In testimony before the committee, Dr. Carl Marburger, director of the National Committee for Citizens in Education, stated the importance of citizen participation for increasing confidence in schools and children's educational abilities. Lack of confidence in public schools is alarming. According to the National Center for Educational Statistics, the percentage of people with "hardly any confidence in people running education" has nearly doubled from 1973 to 1976. A 1976 Gallup survey found that 59 percent feel the quality of education is declining. Studies showing increasing declines in high school graduates' reading skills and SAT scores reinforce the lack of confidence in our schools. Even more alarming is that lack of confidence surfaced in the voting booth, where in 1975, 56 percent of all bond issues before the public were rejected.

Also, although in the next decade postsecondary school enrollment will decrease by 15 percent, and elementary school enrollment will decrease by 8 percent, costs are expected to rise by 65 percent.[1] Support from the public will be needed even more as schools will continue to be pressed financially.

Educational research, such as the widely read Coleman study, and subsequent studies based on the Coleman data note that when parents participate in school affairs their children do bettter in school.[2] Also, when children observe their parents having an impact on the school, their self-image becomes more positive. Enhanced self-image has been linked to student achievement in many studies.

In sum, it appears that increased parent and citizen participation in the education process not only assists in increasing confidence in the schools, but also has an impact on the decline in student performance.

Dr. Marburger's testimony pointed out the lack of attention in the Federal education system for concerns of parents and citizens:

> Aside from one person on the title I ESEA staff to handle parent advisory councils, there is no one in the entire HEW Education Division specifically designated to handle parent and citizen concerns.
>
> There is no parent representation and only token citizen and student participation on federal education advisory councils, according to a study NCCE recently conducted.
>
> There is no significant effort through the ERIC system or at the National Institute of Education to provide information directly to interested parents and citizens, despite a clear mandate to disseminate information about public education in such a way as to aid the people of the United States.

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[1] Oct. 12, 1977, testimony before the Senate Governmental Affairs Committee by Dr. Carl Marburger, director of the National Committee for Citizens in Education, part 1, hearings, Department of Education Act of 1977; Marburger reference to NCES, "The Condition of Education," p. 157.

[2] Ibid, Marburger testimony, p. 30.

> The force of many provisions in education law about citizen participation has been dissipated by the lack of a coherent policy governing this issue and the lack of consistent enforcement of the provisions.
>
> The present scattering of education programs all over the government is confusing, and it is difficult for an outsider to identify, let alone reach responsible officials.[3]

Already existing with respect to certain education laws are provisions for citizen participation, although there is no coherent policy governing the issue and no consistent enforcement of the provisions.

Student participation was also discussed in hearings before the committee. Lawrence S. Zaglaniczny, executive director of the Coalition of Independent College and University Students, stated in testimony before the committee, "in the past students have not been included very much in the decisionmaking process."

Both Mr. Zaglaniczny and Joel Packer, legislative director of the National Student Lobby/National Student Association Coalition, suggested the need for a unit which would allow students to be consulted on decisions affecting them and to bring student ideas from across the Nation into the decisionmaking process of the Department.[4]

Their testimony supported the need for increased student involvement and input. Mr. Zaglaniczny stated:

> At the present time, there are no formal channels for the views of the 11 million students enrolled in institutions of postsecondary education to be heard.[5]

He suggested that students be represented on the National Advisory Committee, originally proposed in S. 991, and that the commission conduct studies and produce reports on the condition of the involvement of students and parents in educational decisionmaking at the State, local, and national level. During the committee markup, Senator Percy added the word "students" in several areas of the bill to insure that students would be actively involved in the participatory process.

S. 991 provides a mechanism where input can be provided from among citizens, including parents and students. One of the major functions of the Department will be to assess parental and public participation in programs where such participation is required by law and to encourage the involvement of parents, students, and the public in the development and implementation of the Department's programs.

The committee suggests the Secretary consider establishing an Office of Citizen, Parent and Student Concern to perform this public participation function. OMB Director McIntyre's testimony before the committee recommended such an office. This office could be the public's access point to the Department. It would be an effective means for insuring citizen and parent participation in Federal educational programs and for rebuilding public confidence in education. If such an office were created, it would be responsible for monitoring the enforcement of parent and citizen participation provisions now in law and in-forming the public of opportunities to participate in educational policy determination. It could identify program authorities and funds that could or should be used to encourage parent involvement, and assess the effectiveness of parent involvement strategies.

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[3] Ibid.

[4] Testimony of Lawrence S. Zaglaniczny, executive director, Coalition of Independent College and University Students, before the committee, Mar. 20, 1978, transcript, p. 6.

[5] Ibid., p. 23.

Already existing within the Office of the Commissioner of Education are several offices of special concern (for example, offices for minorities, women, and the handicapped). These offices could be consolidated in this Office and benefit from the resulting coordination and increased visibility. A 1977 study by the Education Commission of the States concluded that Hispanics are consistently below their contemporaries in the rest of the Nation in reading, science, mathematics, social studies, and career development. A unit within this Office for Hispanic Affairs could insure that the Hispanic community is involved in matters of interest to it and could monitor and evaluate existing requirements to insure that Hispanic participation occurs where the law warrants it.

Some of the specific functions this Office could perform would be the following:

(1) Analyze and assess programs administered by the Department to identify current parent, student, or citizen involvement responsibilities, and identify current materials technical assistance that can be used to increase their involvement;

(2) Assess, and report to the Secretary on the implementation of parent, student, or citizen involvement provisions in current law or proposed legislation, and make recommendations concerning the analysis and assessment of this involvement. The Office could be used by the Secretary as a vehicle for coordinating the numerous parent, student, or citizen appointments to departmental boards, commissions, or other panels;

(3) Provide assistance and consultative services to program staff in developing appropriate means for public involvement;

(4) Serve an ombudsman-type function by receiving and channeling for proper attention complaints, grievances, or other input from the public within the Department. This could make the Department aware of the needs of parents, students, and citizens and their involvement in the educational process;

(5) Serve as liaison with education advisory committees, the Federal Interagency Committee on Education, the Intergovernmental Advisory Council on Education, and the Assistant Secretary who has responsibility for intergovernmental affairs. Thus, stronger institutional community ties could be achieved by an effective mechanism responsible for achieving increased citizen involvement in the Department's programs and activities;

(6) Consult with various entities within the Department, such as the Office for Educational Research and Improvement, which are engaged in research or studies pertaining to parent, student, or citizen involvement in education; and

(7) Engage in the dissemination of valuable information on opportunities for parent, student, and citizen involvement in the Department's administration and policy development processes.

The committee believes such an Office, if created, should be at a sufficiently high level in the Department to insure its maximum usefulness and effect. Parent, student, and citizen involvement must cut across all functions of the Department for it to be successful and to rebuild lost confidence in education.

OFFICE FOR CIVIL RIGHTS

A major purpose of the Department is to continue and improve the Federal commitment to insuring access by every individual to equal educational opportunities. The Department will assume responsibility for effectively carrying out the Nation's civil rights laws in education. The Secretary of Education will provide for the effective administration of civil rights laws.

S. 991 provides for the education components of HEW's Office for Civil Rights to be moved into the new Department. The education-related civil rights functions will be concerned with such provisions as title VI of the Civil Rights Act of 1964 (racial and ethnic discrimination); title IX of the Education Amendments of 1972 (sex discrimination); section 504 of the Rehabilitation Act of 1973 (discrimination against the physically and mentally handicapped); Executive Order 11246 (employment discrimination on the basis of race, color, religion, sex, national origin); and Indian preference functions of Public Law 93-638 (Indian Self-Determination Act).

The progress in civil rights enforcement in education during the past 18 years has led to substantial improvements, but much remains to be done.

The transfer of HEW's education-related civil rights responsibilities provided for under S. 991 is fully consistent with a mandate first expressed in title VI of the Civil Rights Act of 1964 that all Federal agencies assure nondiscrimination in the programs they administer. In order to implement this mandate effectively, organizational arrangements within the new Department will include:

> The creation of an Office for Civil Rights, independent of the Department's programs, whose director will report directly to the Secretary.
>
> The designation of the director of the office at an executive level IV position, and appointed by the President with Senate confirmation.
>
> A requirement that the Director for Civil Rights be delegated authority by the Secretary for insuring that all civil rights laws are enforced in all program units of the new Department, and a prohibition against any redelegation of this authority to any official not directly responsible to the Assistant Secretary.
>
> A requirement that the Director prepare and transmit directly an independent report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report would include a statement concerning the Director's plans and recommendations to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

These proposals will assure adherence to civil rights enforcement within the program units of the Department. Presently, the Director of HEW's Office for Civil Rights performs at a GS-18 level. This position is not Presidentially appointed, nor subject to Senate advice and consent. The increased status assigned to the function by

S. 991 will (1) improve the ability to recruit high-level individuals; (2) demonstrate the importance the Federal Government places on civil rights enforcement in education; and (3) assure that the head of civil rights enforcement is accountable to the President and to Congress, as well as to the Secretary.

By including in the Department of Education certain education and related programs not now under HEW's jurisdiction, the Federal Government will be better able to promote equal educational opportunity. The Department of Education will be responsible for civil rights enforcement not only in those programs presently in HEW, but also in certain transferred programs now scattered across other departments and agencies, such as USDA's school lunch and related programs, BIA schools, DOD overseas schools, and Justice's student loan programs.

HEW's Office for Civil Rights estimates that approximately 80 percent of its employees work on education-related responsibilities. This proportion of activity would be transferred to the new Department. In order to insure the Federal Government's commitment to guarantee and secure the basic education-related civil rights of all citizens, the Office for Civil Rights must be staffed adequately to carry out its responsibilities. Under the President's fiscal year 1979 budget proposal, it will have approximately 1,500 staff.

In addition to the concern expressed for adequate and qualified staff in education activities, adequate staff for the health and welfare areas is also of concern.

During the April 14 hearings on the bill, Senator Percy specifically requested from the administration whether additional staff would be required to handle civil rights activities in health and welfare and what would be the effect of the transfer on the effectiveness of civil rights activities in the areas of health and welfare. James McIntyre, Director of the Office of Management and Budget, responded that this transfer would enhance civil rights activities in the health and welfare areas:

> These areas have been dwarfed by education within HEW; in the Department of Health and Welfare they would clearly be given the greater attention they deserve.[6]

In addition, he said:

> It may be necessary to add some staff to handle the civil rights activities in the health and welfare areas.

Mr. McIntyre assured the committee that additional staff would be requested of the Congress if they are needed for health and welfare enforcement.

During the course of its deliberations on S. 991, the committee identified several other issues related to civil rights enforcement that were not appropriate for resolution within the context of this act. Nonetheless, it does have concerns about each of the issues, and expects the Secretary of Education, working with other executive branch officials and appropriate congressional committees, to deal with them in carrying out his or her civil rights responsibilities. These concerns are with respect to the following areas:

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[6] Letter of June 16, 1978, to Chairman Abraham Ribicoff by James T. McIntyre, Jr., Director, Office of Management and Budget.

1. Staffing

OCR must be staffed adequately to carry out its duties. OMB estimates that 1,500 staff will be transferred from HEW's Office for Civil Rights to the new Department's OCR. Civil rights groups have contended that this may not be adequate, especially in light of recent court orders, most notably *Adams* v. *Califano*, and in light of the additional responsibilities which OCR will inherit as a result of the non-HEW education programs placed in the new Department. The committee is not prepared to make a judgment on this issue at this time. It does note, though, that OMB Director McIntyre committed himself in his July 10 letter to Chairman Ribicoff to review OCR's staffing needs within 1 year after the Department's creation "to be certain that the office is capable of carrying out its mandate." The committee believes this is a reasonable approach, and expects OMB to report its findings of this review to the appropriate congressional committees when it is completed, but not later than 15 months after the Department's creation.

2. Compliance procedures

Too often civil rights compliance procedures have been unclear and left too wide administrative discretion. As a consequence, confusion and ineffective enforcement results. This has been true in education as well as in other areas.

The committee believes the creation of a new Office for Civil Rights in the Department of Education presents an opportunity to improve these procedures. It recognizes, as Director McIntyre pointed out in his July 10 letter to Chairman Ribicoff on the civil rights functions in the Department, that the President's reorganization project is conducting a major review of the enforcement of civil rights laws in all federally financed services, including education. It expects that this review will examine a range of options to improve compliance procedures. The committee is especially interested in recommendations that will improve the civil rights effort Government-wide. In particular, the committee expects the study to assess and report on ways to coordinate better enforcement efforts and the use of effective administrative procedures for suspension of Federal assistance in cases where there has been a finding of discrimination. The committee hopes the reorganization project can discuss its findings and recommendations with appropriate congressional committees early in 1979 so they can be taken into consideration during the implementation phase for the Department of Education.

3. Data

The committee believes that adequate data are essential to effective civil rights enforcement. Hence, nothing in this proposed legislation shall be construed to interfere with the enforcement of the Civil Rights Act of 1964, or any other nondiscrimination provision of Federal law, nor to abrogate or otherwise limit the timely collection of such information, or the securing of such records as are necessary to insure the complete and uniform enforcement of these acts among the recipients of the Department's programs.

At the same time, however, OCR must consistently review its data requests in the interest of limiting paperwork. OCR should, in order to help meet this objective, coordinate its information requests with other agencies in and out of the Department, to make sure it is not asking for data that already exists or will be collected, or to see if modifications of non-OCR data collection systems could provide a more effective and less burdensome means of meeting the necessary enforcement data requirements. After such coordination, however, the committee believes OCR should have the authority to appeal directly to the Office of Management and Budget the right to request any data it determines are needed to enforce the law in such cases where other agencies have tried to delay or reduce OCR's collection capacity, or have refused to accommodate civil rights data needs in their own systems, during this coordination process. The Director should specifically identify any problem he or she has in collecting data in OCR's annual report to Congress, and suggest recommendations to solve these problems.

4. Legal staff

As previously noted, OCR is a law enforcement agency and, as such, should have at its disposal an adequate legal staff to help it carry out the functions, powers, and duties of the office. The Secretary must insure that legal staff paid for with civil rights' funds should only work on civil rights issues.

The OCR Director should have the authority to select, appoint, and employ such officers or employees, including an adequate staff of attorneys, as may be necessary to carry out the functions, powers, and duties of the office. In particular, the legal staff in both the regional and national offices, which is paid for out of the Office for Civil Rights budget, should report to the Director or his or her designee.

The Director, as part of his or her annual report to the Congress, should report on the adequacy and availability of the legal staff at OCR's disposal. OMB should also report to the Congress on this issue in its report on OCR staffing referred to earlier.

During the 6-month implementation phase for creating the Department, the Secretary should work closely with interested groups and individuals concerned with education-related civil rights. Careful attention should be given during this process to addressing the needs of all groups, especially blacks, Hispanics, Asians, women, the handicapped, and the aged. The committee suggests the Secretary investigate the feasibility of setting up a branch of the Office which would be concerned with the protection of the special and unique rights of American Indians, Alaskan Natives, and Aleuts.

The establishment of the Office for Civil Rights provides an opportunity to improve current procedures. The active involvement of those involved in insuring the achievement of equal educational opportunities will be needed. Therefore, these individuals both in and out of government should be consulted to obtain suggestions for possible improvements that could be made during the transition.

The committee expects the Office of Management and Budget will exercise oversight management authority to make certain the Department gives its civil rights responsibilities high priority, and expects the Department of Justice to exercise its supervisory powers regarding title VI of the Civil Rights Act of 1964 under Executive Order 11247.

DEPARTMENT ROLE IN ELEMENTARY AND SECONDARY EDUCATION

S. 991 provides for the establishment within the new Department of an Office of Elementary and Secondary Education to be headed by an Assistant Secretary for Elementary and Secondary Eduction. The committee estimates the new Office will administer more than $6 billion for education programs and have an estimated staff of 864. Since the 1960's, primary Federal education effort has been to increase access to education and to help move toward equal education opportunity for all Americans. The Office of Elementary and Secondary Education will continue this effort by supplementing and complementing State and local government's efforts to eradicate educational inequity and to insure economic productivity.

Although the lives of more than 48 million students in elementary and secondary day schools are touched by the programs established by the Elementary and Secondary Education Act, the direction and administration of these programs is currently assigned to a number of officials buried within the U.S. Office of Education structure. There is little apparent effort by these officials to coordinate these programs to most effectively meet the needs of students in their communities and classrooms.

By placing these programs in the new Department under the jurisdiction of an Assistant Secretary for Elementary and Secondary Education, the committee believes that coordination for better delivery of Federal services to students, schools, and local education agencies can be achieved. A highly visible Assistant Secretary should be accessible and responsive to concerns of local school officials, teachers, parents, and students. An Assistant Secretary can better direct programs officers in streamlining delivery and will have authority to institute delivery procedures which are responsive to the needs of local communities. An Assistant Secretary can oversee the total process of administering Federal education program in such a way that the dollars Congress intends to be expended on actual program operation will go to schools where teaching and learning take place, rather than be squandered on administrative functions in the Federal and State bureaucracies.

This office would be expected to administer such programs as the following:

Title I of ESEA

Title I of ESEA accounts for 47 percent of all Federal elementary and secondary spending. It provides grants to local school districts on a formula basis to help them improve their educational programs to meet the special needs of educationally disadvantaged children. In addition, grants are made to State agencies for the education of handicapped children, for dependent and neglected children, for orphans and juvenile delinquents in State institutions, and for children of migratory workers.

In recent years, the title I program has begun to generate a substantial impact in improved reading and math skills among disadvantaged youths, showing month-for-month gains in reading achievement nearly double that experienced by the general school population and

50 percent greater than that experienced by disadvantaged children not served by title I. Program evaluations funded by HEW and a 3-year evaluation of the program conducted by the National Institute of Education explain those successes as the result of an increased capacity on the part of local education agencies in the practical art of educating the disadvantaged population.

In spite of these successes, only 45 percent of the eligible title I children are being served. An Office of Elementary and Secondary Education will provide an administrative structure which can assure that the funds appropriated actually reach the classroom level where they may be used to provide educational services to disadvantaged youths.

Support and innovation

The consolidated programs contained within "support and innovation" grants consist of (1) supplementary educational centers and services; (2) strengthening State and local education agencies; (3) dropout prevention projects; and (4) school nutrition and health services. When the Congress consolidated these various programs into title IV of ESEA (in Public Law 93–380), one of the primary purposes of that action was to reduce paperwork and regulations and to provide greater flexibility at the State and local levels. However, the current Office of Education has not yet fully restructured its operation to deal effectively with this consolidation. As noted by Senator Henry Bellmon in testimony before this committee, such failure by OE clearly "demonstrates how administrative organization at the Federal level can impede legislative intent." [7]

Bilingual education

The bilingual education program supports local classroom instructional projects and assists in developing State, local, and university capabilities for training bilingual school personnel. In addition, the program also provides resources for bilingual instructional material, and supports research and evaluation studies.

Currently, the bilingual program serves only about 250,000 of the estimated 3.5 million students with limited English-speaking ability. Recent studies have indicated that these students are generally below their peers in basic educational skills. Given the basic responsibility for bilingual education, the Office of Elementary and Secondary Education should work in close coordination with the Office of Research and Improvement, the Office for Civil Rights, and the Office of Postsecondary Education to ensure that the total education needs of bilingual students are being addressed.

Right to read

The right-to-read program provides facilitating services and resources to stimulate educational institutions, governmental agencies, and private organizations to improve and expand their activities related to reading. The long-range goal of this program is to promote functional literacy, meaning effective use of oral and written language which includes listening, speaking, reading, and writing. The Office of

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[7] Op. cit., Bellmon testimony, hearings, Oct. 12, 1977.

Education has estimated that between 40 and 50 percent of students in urban areas have reading problems; 90 percent of school dropouts are classified as poor readers; and 50 percent of urban unemployed young people are unable to read. A recent GAO investigation of the right-to-read program found little evidence of coordination between right to read and the other $1 billion worth of Federal programs designed to improve basic reading skills. By placing the program in an office handling the major elementary and secondary education programs, a real opportunity will exist for insuring that these Federal programs directed toward improving basic skills are not duplicative and that the funds expended for these programs have maximum impact.

Follow Through

Follow Through is designed to sustain and augment in primary grades the gains that children from low-income families make in Head Start and other quality preschool programs. Follow Through provides comprehensive education services, such as special instruction programs, health, and nutrition, which will aid in the continued development of children to their full potential. Follow Through will provide an organizational base in the new Office for a closer working relationship among elementary and secondary education programs and comprehensive preschool education programs.

School assistance in federally affected areas

School assistance in federally affected areas (impact aid) provides payments in lieu of taxes to school districts to compensate them for real property within the district which, because it is federally owned, yields no taxes to support the school system and because of impaction of students upon school facilities and operating budgets due to Federal activity. Impact aid was the first Federal legislation authorizing major support for elementary and secondary education. It currently serves 4,354 school districts located in 411 congressional districts throughout the Nation.

Emergency School Aid Act (ESAA)

ESAA is designed to assist local education agencies, public or nonprofit private organizations and institutions in the process of eliminating, reducing, or preventing minority group isolation and aiding school children in overcoming the educational disadvantage of minority group isolation.

In addition, programs such as the alcohol and drug abuse program and the libraries and learning resources program, might also be included in this Office.

DEPARTMENT ROLE IN POSTSECONDARY EDUCATION

American postsecondary education is a large and diverse enterprise enrolling more than 13 million students in some 3,000 colleges and universities, 4 million students in 1,000 community colleges and over 8,000 noncollegiate vocational postsecondary institutions. Higher education alone is almost a $50 billion a year enterprise which employs more than 600,000 instructional and research staff and 1.3 million administrative and support personnel. Of the estimated $22 billion Federal spending on education, approximately $9.6 billion is directed to postsecondary education.

The bill would establish an Office for Postsecondary Education, headed by an Assistant Secretary for Postsecondary Education, to assure that the needs and concerns of this major sector of education are represented at the highest levels of the Department of Education. The Office would have a staff of approximately 1,200 and have program spending authority in the approximate amount of $3.6 billion.

The need for a high-level spokesperson for higher education was discussed during the committee's hearings on S. 991. One fear raised by some in the higher education community was that a Department of Education might be dominated by elementary and secondary education interests. However, in terms of dollars expended, higher education and elementary/secondary interests are approximately the same. Both categories are funded near $4.5 billion. Dr. Sidney Marland, in testimony before the committee stated:

> While the higher education programs are fewer in number, they are substantially in parity in terms of dollars with elementary and secondary. (Marland, p. 328.)[8]

In response to a written question submitted by Senator Ribicoff to former U.S. Commissioners of Education Dr. Terrel Bell, Dr. Samuel Brownell, Harold Howe, II, Francis Keppel, Dr. Sidney Marland, and Dr. Sterling McMurrin requesting suggestions for balancing elementary and secondary and higher education interests, the overwhelming response supported the need for an Assistant Secretary or Under Secretary for Postsecondary Education.[9] Support for this position was also given by Robert L. Egbert, dean, Teachers College, University of Nebraska at Lincoln, on behalf of the American Association of Colleges for Teacher Education, the Dean's Network and Wilbur Cohen, dean of the School of Education of the University of Michigan.

The Department will become the lead Federal agency in coordinating Federal policies and programs designed to improve postsecondary educational opportunities in the nation. Promoting equal access to postsecondary education should be accomplished primarily by maintaining direct grant and loan assistance programs for qualified and needy students.

Major institutional assistance, with certain exceptions, would not be possible under current congressional authorizations. A notable exception is assistance to developing institutions. Also, the Department would be able to improve institutional capacities through a variety of special grant programs which respond to the specific educational needs of students or instiutions engaged in high quality educational or research programs.

The Department will also be expected to assist the growth and development of a variety of academic programs and related services offered at our Nation's public and private postsecondary institutions. Among the special programs requiring departmental attention and commitments are continuing education programs, lifelong learning library facilities and training programs associated with college instruction and research, counseling and community services, and institutional offerings relating to special services for individuals and groups underrepresented in higher education and certain technical and professional fields.

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[8] Op. cit., hearings, pt. 1, p. 328.

[9] Op. cit., hearings, pp. 270–317.

Characteristics of and changes in postsecondary education

Postsecondary education in this country is exceedingly diverse and extensive. Sectarian and private groups maintain and operate more than one-half of the Nation's 3,000 colleges and universities. Institutions of higher education serve many purposes and many different clients. Each of these institutions should be able to choose and pursue its own course. Department officials should guard against carrying out any practices which have the impact of homogenizing or standardizing policies and services developed by State, local, or private higher education officials and their governing boards or of intruding into the areas central to the autonomy of such institutions.

The Department should initiate procedures that recognize the changing characteristics in postsecondary education. There are significant changes occurring in postsecondary school enrollment. While current projections indicate only moderate increases in enrollment over the next decade, the impact of major changes in curriculum, expansion of student aid programs to middle-income families, and the doubling of part-time enrollment by 1986 may bring a larger increase in enrollment than currently projected.

Support for R. & D. at colleges and universities

Researchers and graduate students at colleges and universities are principal participants in the Nation's basic research effort. Approximately two-thirds of all Federal R. & D. efforts, or about $3.6 billion fiscal year 1979 OMB estimate), are obligated to colleges and universities. Federal agencies involved in basic research, such as NSF, NIH, the Departments of Defense and Energy, will continue their funding of the majority of the research dollars flowing to universities. Although the majortiy of the funds for research, evaluation, policy studies, and demonstrations will undoubtedly remain outside the jurisdiction of the Office of Post Secondary Education, the committee expects this Office to play a major role in assisting the research agenda for postsecondary education issues.

Role of the Assistant Secretary for Postsecondary Education

A primary responsibility of the Assistant Secretary will be to keep the Secretary and the Congress advised of trends in American postsecondary education. The Assistant Secretary will establish continuing reltationships with students, faculty, administrators, trustees, and other leaders to identify issues and problems and to make recommendations for improvements in Federal education programs affecting postsecondary education. Streamlining regulatory requirements and paperwork burdens, which currently hamstring many postsecondary institutions, should be one of the first orders of business.

The committee foresees the Assistant Secretary for Post Secondary Education as the leading figure in directing, coordinating and implementing departmental programs with respect to postsecondary student assistance, institutions and community colleges, and institutional support.

The bulk of the Department's funds for postsecondary institutions will support the several major programs of student financial assistance, which will be administered by the Office of the Assistant Secretary. Federal financial assistance to undergraduates has become a critical factor determining whether or not students from lower and middle income families attend a postsecondary institution. More than 82 percent of the Federal aid to postsecondary education includes grants and loans to students. Of this amount, 91 percent eventually goes to undergraduate institutions.

This act transfers four additional direct student aid programs to be grouped with approximately one dozen direct assistance programs administered by the Bureau of Student Fnancial Assistance in USEO. The Assistant Secretary will adminsiter all "need-tested" Federal student assistance programs. "Need tested" means that financial assistance grants and loans area warded according to the student's or his or her family's ability to pay the cost of posesecondary instruction, and the price of education at a particular college or university.

The Assistant Secretary should consider the benefits associated with subsequent consolidation and coordination proposals. Effective coordination within this Office will greatly enlarge the capacity for simplifying the application process and increase the Federal ability to minimize the cost of defaulted loans by an improved collection process. Most importantly, a single agency will be able to analyze Federal student loan trends and problems in terms of longrun indebtedness to the student and problems in terms of longrun indebtedness to the student and his or her family and in terms of grants programs directed toward equal education opportunities at the postsecondary levels.

In addition, the Assistant Secretary will be responsible for coordination of Federal programs of financial assistance to students at the undergraduate and the graduate and professional levels. Such coordination is essential to reduce the complexity of information on the various specialized scholarship, fellowship, and loan programs conducted by other Federal agencies, and to provide to the greatest extent possible common conditions and criteria for eligibility, application, award, and administration. The Assistant Secretary will also be responsible for administration of the vorious authorities which provide categorical program support for postsecondary institutions to achieve stated objectives.

Analytic activities should concentrate on the distribution of opportunities in postsecondary education, on how students respond to those opportunities and on a range of issues relating t othe extent to which Federal student financial assistance fosters the continuing vitality of postsecondary institutions, including 2-year community colleges, 4-year public and private colleges and graduate-level research institutions and programs. Thus, an important function of the Assistant Secretary's Office will be to evaluate the impact of these and other Federal programs on the various sectors of postsecondary education and to identify problems in their administration (including measurement of the burdens of Federal programs and regulations).

The committee also suggests that a director for community colleges report directly to the Assistant Secretary. Because community colleges now constitute a major segment of postsecondary education, such a representative should have direct access to this Assistant Secretary.

OFFICE OF OCCUPATIONAL, ADULT AND COMMUNITY EDUCATION

The creation of the Office of Occupational, Adult and Community Education, headed by an Assistant Secretary, will provide needed visibility, representation, and effective administration for Federal vocational, adult, and community education assistance to the State and local programs, which constitute many times the magnitude of Federal efforts in this field.

Today, over 15 million American children are involved in vocational education. Youth with more education who have less work experience are found to earn substantially more than their counterparts with less education. Adult literacy goes hand in hand with job stability and income continuity. Yet less than 5 percent of adults eligible for basic and secondary education receive serious services.

Because Americans have more leisure time due to advancing technology, education is needed to prepare our citizens for several jobs during their lifetimes. Studies show more than 75 percent of adults in the United States are interested in some form of continuing education. The elderly, and women, especially, seek new educational opportunities.

Schools increasingly are becoming important vehicles for the delivery of services to citizens by using valuable school facilities and costly educational services efficiently with related community services, yet less than 10 percent of the 16,000 American school districts have opened the schools to recreation and community services use. These schools which have opened their doors to the community are involving the people of that community in a total educational program. These schools offer recreation, public health, nutrition education, and other services to citizens of all ages and special services to the handicapped. They are put into round-the-clock service where local communities determine the needs that exist. Thus, community education programs and full use of schools by the community reduce taxpayer costs and promote increased community involvement.

The creation of this Office will provide the necessary administrative structure capable of assisting States and localities in delivering effective education and training and adult community services. The Office will be expected to be involved in perceiving changing trends in education and administering programs which prepare inidviduals for continuous education throughout their working lifetimes.

At the Federal level, this Office will effect a partnership between education programs with occupational outcomes in the Department of Education and manpower utilization programs with significant training components in the Department of Labor. While youth education and employment constitute a primary focus of the work of this Office, preparation of adults and older Americans for access to education and work would be a priority mission as well.

At the State and local levels, this Office will provide programmatic assistance in achieving a blend of vocational, adult, and community education programs. This blend, in turn, will help to attract, retain, and serve private sector economic enterprise, to improve the quality of life and to coordinate education and work programs. With its focus on concrete skills and performances, the Office will promote exchanges between the schools and the larger community through provisions of grants to States and localities and by dissemination of the exemplary programs currently under development or in operation.

The Office will also serve to promote confidence in and access to the schools by the policymakers and the citizens of each community. The committee notes that respected national population surveys record more than half the Nation as believing we spend too little on education but indicating as well that confidence in school personnel has declined in recent years. With declining enrollments, surplus facilities, and strained resources affecting the long-term prospects for effective American education, the mission of this Office will be to chart the most cost-beneficial, community-responsive link between education and occupation, on the one hand, and school and community, on the other.

The Office's programs would have a fiscal 1979 authorization of over $725 million and would utilize a staff of approximately 236.

In light of the creation of this new Office, the existing functions of the Bureau of Occupational and Adult Education would be located within it and the present Bureau would be abolished. Thus, the new Office would administer the programs now being administered by the Bureau of Occupational and Adult Education. These programs would include those relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. The community schools and community education programs presently located in the Bureau of Occupational and Adult Education would be established prominently within the new Office to be concerned with school-community linkages and would administer and coordinate programs authorized or mandated in a wide range of associated legislation.

VOCATIONAL REHABILITATION

S. 991 establishes an Office of Special Education and Rehabilitative Services within the Department to be administered by an Assistant Secretary for Special Education and Rehabilitative Services. The bill transfers the Rehabilitation Services Administration (RSA) and the Office for Handicapped Individuals (OHI) to the new Department. It consolidates these entities with the Bureau of Education for the Handicapped (BEH). BEH is part of the Education Division of HEW and is being transferred in section 301 of the bill.

The Office of Special Education and Rehabilitative Services would administer functions presently administered by the Commissioner of RSA under the Rehabilitation Act of 1973 and functions administered by BEH under the Education of the Handicapped Act. In addition, it would administer OHI which was authorized by the Rehabilitation Act of 1973 but is not presently administered by the Commissioner, and it will administer the Randolph-Sheppard vending facility program, which is administered by the Commissioner of RSA but was not authorized by the Rehabilitation Act of 1973.

The new Office will not administer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs.

The legislation provides for the transfer to the Office of the following functions:

Rehabilitation Services Administration

RSA is presently located in the Office for Human Development Services within the Department of Health, Education, and Welfare. The basic purpose of the vocational rehabilitation programs which RSA administers is to provide a comprehensive program of rehabililitative services for physically and mentally handicapped persons whose disability substantially impedes employment, but who can reasonably be expected to benefit in terms of employability from these vocational rehabilitation services.

There are essentially six program areas that are administered by RSA and are being transferred into the new Department. The program areas are: Basic State grants, innovation and expansion, service projects, research, training, and the Randolph-Sheppard vending facility program.

Basic State grants for rehabilitation services.—The Federal Government provides grants to States to provide the vocational rehabilitation services needed by handicapped individuals to enter into or return to the world of employment. The grants are used to provide the following services: Counseling, referral, placement, vocational and training services, interpreter and reader services, rehabilitation teaching, tools and equipment, transportation, technological aids, construction of rehabilitation facilities, and recruitment/training.

This program constitutes the bulk of RSA's programing responsibility. It receives by far the largest portion of RSA's total budget.

Innovation and expansion.—This program provides State vocational rehabilitation agencies with limited risk capital to try innovation and expansion activities and services which would have significant impact on the vocational rehabilitation of severely handicapped individuals.

Service projects.—This program includes various special service projects which aim at improving the ability of the severely handicapped to work in very specific areas. The projects are: Project and program evaluation, projects with industry, grants for construction of rehabilitation facilities, technical assistance, vocational training services, facility improvement, special projects for the severely handicapped, handicapped migratory agricultural and seasonal farmworkers, Helen Keller National Center for Deaf-Blind Youths and Adults, and client assistance projects.

Research.—This program heading includes two projects.

The first is international research and training activities. Project grants are made to international and domestic public and nonprofit agencies and organizations, and, to a large extent, institutions of higher learning. The grants go toward developing and applying new knowledge to improve the quality of services to the handicapped, leading to maximum participation in gainful employment.

The second project is rehabilitation research. In this case the grants go toward developing new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new methods of providing rehabilitation services.

Training.—Project grants are directly awarded to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, again to a large extent to institutions of higher learning, to provide academic and inservice training in a broad range of rehabilitation professions which contribute to the vocational rehabilitation of the severely physically and mentally disabled.

Randolph-Sheppard vending facility program.—This program is supported by cooperative use of State-Federal vocational rehabilitation funds to pay for staff, vending facility equipment, day-to-day management services, et cetera, to provide employment opportunities for licensed blind vendors on Federal and other property.

Bureau of Education for the Handicapped

BEH is presently located in the Office of Education within the Department of Health, Education, and Welfare. It is the principal agency for administering and carrying out programs and projects relating to the education and training of the handicapped as authorized by the Education of the Handicapped Act, and the Education for All Handicapped Children Act of 1975.

There are essentially seven program areas administered by BEH which are being transferred into the Department. These program areas are: State assistance; special population programs; regional vocational, adult, and postsecondary programs; innovation and development; media and resource services; special education manpower development; and special studies.

State assistance.—Under this general program heading are three more specific projects. The first is the State grant program. The Education for All Handicapped Children Act provides that all handicapped children must be provided educational and related services that are free, appropriate, and individualized. To assist States and outlying areas in meeting the mandate of this act, this program makes grants to help defray excess costs associated with the education of handicapped children at the preschool, elementary, and secondary levels.

The second program concerns funding of deaf-blind centers. This program aims at helping deaf-blind children achieve their full potential for communication and adjustment within society. The program supports regional centers which provide educational and therapeutic services, medical diagnosis and evaluation, and family counseling to deaf-blind children and their families.

The third program is preschool incentive grants. This program seeks to stimulate State and local education agencies to develop and expand educational services to handicapped preschool children, aged 3 to 5, by providing grants to States based on the number of children being served.

Special population programs.—There are two projects contained within this program heading. One of these is the severely handicapped project. Contracts are competitively awarded to State departments of special education, intermediate and local school districts, institutions of higher education, and other public and nonprofit private agencies, to establish and promote programmatic practices designed to meet the educational and training needs of severely handicapped children and youth, in order to make them independent.

The second project is early childhood education. This project awards grants and contracts to provide models for the delivery of educational services to preschool handicapped children.

Regional vocational, adult, and postsecondary programs.—This program provides assistance to publicly supported educational institutions to promote the development and operation of specially designed or modified programs that offer vocational, technical, postsecondary, and adult educational opportunities for handicapped persons.

Innovation and development.—Grants are made to improve educational opportunities for handicapped children under this program. It supports research and development activities to improve the effectiveness and efficiency of the educational system for these children through research into critical issues, the development, validation, and dissemination of alternative approaches to problems specific to the education of the handicapped.

Media and resource services.—There are three projects grouped under this heading. Media services and captioned films supports grants and contracts to State and local education agencies, institutions of higher learning, and other public and nonprofit private agencies, to help provide handicapped learners with special educational materials.

Another project is the establishment of regional resource centers which offer training for personnel in special education skills, technical assistance in the development of State plans to serve the handicapped, direct referral services, and assistance to local educational agencies and State educational agencies in adopting models of multidisciplinary referral education services.

The last project under this program heading is recruitment and information. Its purpose is to support the dissemination of information about available programs, services, and resources for the education of handicapped children and to provide referral services to parents, teachers, and other interested groups seeking to appropriate educational programs for their children. In addition, recruitment efforts are funded to encourage people to enter the field of special education.

Special education manpower development.—Annual grants are made, under this program, to State education agencies and institutions of higher education to assist them in developing and improving training programs for educational personnel for the handicapped.

Special studies.—These special studies are mandated to measure and evaluate the provision by States to all handicapped children of a free, public, and appropriate education as required by the Education for All Handicapped Children Act of 1975 and to enable the Commissioner of Education to respond to the legislative requirement to annually assess the implementation, impact, and effectiveness of the law. These studies can be conducted by the Commissioner directly or by grant or contract.

Office for Handicapped Individuals

OHI was provided for by the Rehabilitation Act of 1973. That act authorized the Secretary of HEW to provide a central clearinghouse for information and resource availability for handicapped individuals through the evaluation of systems within HEW, other departments and agencies of the Federal Government, public and private agencies and organizations, and other sources which provide information and data regarding the location, provision, and availability of education services and training programs for handicapped individuals.

The committee believes that with the transfer of RSA and BEH to the new Department the resource availability, data collection, and informaiton which OHI could draw on in HEW, as addressed by the Rehabilitation Act, will no longer be in HEW. The primary services for the handicapped as they relate to education will be in the Department of Education. The ties the Office for Handicapped Individuals has with RSA and BEH will be severed if it is left in the Department of Health and Welfare. The committee recognized the necessity of maintaining these ties and therefore transferred the Office for Handicapped Individuals, and its functions, to the new Department to be consolidated with RSA and BEH in the Office of Special Education and Rehabilitative Services.

Committee analysis

After analyzing the programs which RSA and BEH administer, the committee believes it makes good administrative sense to consolidate these two agencies, with OHI, within one Office of Special Education and Rehabilitative Services in the Department of Education.

The committee realized an opportunity to make an organizational change in the existing fragmented programs that can initiate the development of a comprehensive national policy for the education of the handicapped.

There are several reasons the committee believes the vocational rehabilitation programs administered by RSA should be joined with the programs administered by BEH in the Office of Special Education within the Department.

The first reason is that there is a natural relationship between the programs BEH and RSA administer. An examination of the foregoing program descriptions will indicate that both entities have as their common mission improving the ability of handicapped individuals to adapt to society. The committee believes this relationship should be strengthened and that there should be a smooth transition between the general schooling a handicapped child obtains and the vocational education that same individual receives when he or she decides what type of career or vocation to pursue.

The committee also determined there is a significant overlap in the individuals served by BEH and RSA. Although BEH primarily educates children, a significant portion of its programing responsibilities trains adults who in turn train handicapped people. Programs such as the special education manpower development project illustrate this point. In addition, BEH administers programs which counsel the families of handicapped individuals. The regional vocational, adult, and postsecondary programs further illustrate the various age groups served by the programs BEH administers. On the other hand, RSA does not restrict itself to one age group either. It also trains nonhandicapped individuals of any age who in turn train handicapped individuals.

The committee believes placing vocational rehabilitation programs in the same office with programs concerned with the general education of the handicapped would—whether that general education is achieved through direct training of the handicapped or through the training of individuals to teach the handicapped—provide a continuum of habilitative services for the handicapped from birth through adulthood, as Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, has suggested in a letter to the committee dated May 12, 1978.

Another reason the committee favors placing vocational rehabilitation and the programs BEH administers in one office within the Department of Education is because the focus of these programs is educational. These programs emphasize training. Training is directly related to educational concerns. Moreover, their overall goal is to improve the ability of handicapped individuals to adapt to society. The committee believes this goal is one which the Department of Education will be broad enough to encompass.

Further, it is the committee's determination the goal of helping to make handicapped individuals become productive, to live with the same independence and dignity of nonhandicapped individuals, is much more compatible with the concerns of education than it is with health and welfare. Handicapped individuals have special needs for services and benefits regardless of income. Education has traditionally made as one of its goals the delivery of services and benefits regardless of income. Health and welfare, on the other hand, as they will exist in the Department of Health and Welfare, will deliver services and benefits on the basis of economic status. Thus the committee believes the Department of Education will better be able to meet the needs of the handicapped as they relate to education.

Another factor the committee took into consideration in coming to the conclusion the vocational rehabilitation programs should be transferred and joined with both OHI and the programs administered by BEH is the significant number of States, 17, that presently administer their vocational rehabilitation programs from their educational agencies. This illustrates the proven compatibility between vocational rehabilitation and education.

While recognizing this existing compatability, it is not the intention of the committee to mandate that any State must administer its vocational rehabilitation programs from its education agency. Therefore, the committee added language to the bill which clearly states that nothing in section 208 shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

During its deliberations on this issue the committee learned of widespread support for the transfer of RSA and its consolidation with BEH in the Department from Senator Randolph, chairman of the Senate Subcommittee on the Handicapped, the Council for Exceptional Children, the National Federation of the Blind, the American Coalition of Citizens with Disabilities (made up of 75 organizations), the National Rehabilitation Association and the State Administrators of Vocational Rehabilitation.

In conclusion, the committee believes the natural relationship which exists between the programs administered by RSA and those administered by BEH, and the relationship between both of these entities and OHI, merit their consolidation in one office. The committee further believes the focus of these programs is more compatible with the goals of education than with health and welfare. Therefore, the committee realized an opportunity to elevate the status, further the goals, and improve the coordination of the programs concerned with educating the handicapped by placing the Office for Handicapped Individuals, the Rehabilitation Services Administration, and the Bureau of Education for the Handicapped in one Office of Special Education and Rehabilitative Services within the Department of Education.

CHILD NUTRITION

The committee gave careful consideration to the transfer of the school lunch and related child nutrition programs from the Department of Agriculture, where they presently reside, to the new Department of Education.

Two days of hearings were held on the proposed transfer (March 20 and May 8). The nearly 20 witnesses who appeared before the committee represented a broad spectrum of school food service professionals, school administrators, nutritionists, and agricultural producers.

The importance of nutrition in our schools was formally recognized by the Congress in 1946 with the passage of the National School Lunch Act. Over the years, more child nutrition programs were added, and the Federal commitment now stands at nearly $3 billion annually. Today, the school lunch programs are universally available to all the Nation's schoolchildren.

USDA's Food and Nutrition Service presently operates five child feeding programs which will be transferred to the Department: school lunch, school breakfast, special milk, child care food, and summer food service. They are administered and funded through State education agencies, and provide cash assistance to enable schools and institutions to establish, maintain, or expand food service for children. USDA also buys surplus agriculture commodities for distribution to and use in school dining facilities.

The committee believes the child nutrition programs fit closely into place with the overall mission of the Department of Education. The new Department will be concerned with youth and their proper development as individuals. Good nutrition is integrally related to our children's growth and learning. Many studies demonstrate that a hungry or malnourished child does not learn or develop well. USDA Assistant Secretary for Food and Consumer Services Carol Foreman Consumer Services Carol Foreman told the committee:

> This important component of the new Department will represent a clear Federal statement that the responsibility to educate and develop our Nation's children extends beyond the classroom to a wide range of children's needs.

The school feeding programs operate entirely within the context of the school facility and the schoolday. They are as important a function of our schools as lessons, desks, or textbooks. The delivery system for these programs is the educational system. All of the school feeding programs are administered by the State departments of education. The Secretary of Education will be the Federal official who will have direct daily contact with that educational system. Because the Department of Education will be close to the educational delivery system, the programs can be expected to operate more efficiently.

Location of child nutrition programs in the Department of Education will help, most importantly, in forming a uniform administrative chain between Federal, State, and local governments. USDA's data and accounting requirements, funding cycles, compliance procedures, and eligibility standards all differ significantly from those for Federal education programs presently administered by the U.S. Office of Education. The result is burdensome paperwork and redtape for State and local education agencies. According to the Council of Chief State School Officers, the two Federal agencies requiring the most duplicative and time-consuming paperwork are USDA and OE. These top State education officials, who have primary responsibility for the administration of child nutrition programs at the State level, feel the transfer would result in beneficial savings in time and money.

Parallel administration of school nutrition programs on Federal, State, and local levels will foster coordination and standardization. Of all the Federal agencies and programs affecting education, both USDA and OE have the greatest impact and involvement. Placing their school programs under the same umbrella will increase the opportunities for the Secretary of Education to uncover duplication and waste in regulations and paperwork, and correct them.

In their 30-year history at USDA, the school feeding programs have not always fared well. Several administrations have attempted to undercut the programs in response to pressures from powerful agricultural producer interests, which often dominate in USDA. In the past, nutritionists have criticized the influence of "agribusiness" over the programs. In a major report to Congress last year by the General Accounting Office, "How Good Are School Lunches?"—a shortcoming in the performance of the school lunch program revealed by the GAO is the "conflict between the program's agricultural and nutritional provisions." The GAO also concluded the agricultural considerations that retard the school lunch program's nutritional effectiveness "appear to adversely affect student participation." While the current leadership of USDA has given strong support for these programs, the Department of Education can provide a more stable location for the programs.

Transferring child nutrition programs to the Department of Education offers the chance to give nutrition more attention at the Federal level. The Committee believes the creation of the Office of Child

Nutrition, headed by an Assistant Secretary, in the new Department will go far towards building in an institutional guarantee for strengthening the relationship between education and nutrition. The Assistant Secretary for Child Nutrition will be a position of strength and of advocacy within the executive branch.

Locating the child nutrition programs in the Education Department will facilitate coordination with other programs having nutrition components. The Congressional Research Service has identified more than 15 programs in the Office of Education which have significant nutrition responsibilities. Included are titles I and IV of the Elementary and Secondary Education Act, vocational education, consumer education, environmental education, and community education.

The committee believes the Department of Education will provide a sound base for the child nutrition programs. While some may argue educators are not receptive to nutrition programs in the schools, the facts tell a different story:

> Today, the school lunch program is available to more than 90 percent of all children in the United States.
>
> While the total number of U.S. schools has dropped nearly 40 percent since the program's inception in 1946, the number of schools participating in the programs has doubled.
>
> The number of children served by the programs has increased from 6 million in 1946 to more than 25 million today.

These figures indicate the success of the school feeding programs in our schools—rates that could not have been achieved without the encouragement and support of the education community. To date, the chief State school officials from the States of Washington, Georgia, Tennessee, Minnesota, Illinois, New York, Delaware, Alaska, Maryland, Pennsylvania, Michigan, South Carolina, New Hampshire, North Dakota, North Carolina, Wisconsin, Colorado, California, Nevada, Iowa, Utah, Wyoming, Hawaii, Alabama, and West Virginia, and also the top education officials of Puerto Rico and Guam, have communicated to the committee their strong support for school feeding programs and for their inclusion in the new Department. Further, the major national educational organizations are on record in favor of expanding the child nutrition programs and including them in the new Department.

The committee further feels the transfer of these programs will not affect the distribution of surplus agricultural commodities to the schools. It has recommended all authority and funding for the commodity program remain in USDA. Commodities will continue to be bought and shipped by two agencies in USDA: the Agricultural Stabilization and Conservation Service, and the Food Safety and Quality Service. To insure the needs of schools are considered in the commodity selection process, the legislation requires the Secretaries of Education and of Agriculture to consult with each other on the preferences of the Nation's schools for variety and quality in commodities. The committee is aware of recent reports of hard-to-use commodities—such as peanut lard or cranberry sauce—being oversupplied to many schools. Also of concern are the reports of the poor quality of some commodities received by the schools. There should be genuine and serious attempts made by both Departments to adequately meet the needs of schools in providing nutritious and balanced meals.

Coordination between the Department of Education and the Department of Agriculture will not become more difficult by the transfer of these programs. Presently in USDA, there are three different agencies involved in commodity support to the child nutrition programs—each operating separately and distinctly from the other. The new Office of Child Nutrition in the Education Department will simply assume the responsibility, now held by the parent agency in USDA, the Food and Nutrition Service, for providing information on the preferences of the schools to the two agencies which purchase commodities. The committee fully expects the relationships which now exist between FNS and the two commodity agencies already in USDA will carry over to the new Office of Child Nutrition in the Department of Education. This arrangement will resemble the relationship between HEW's Administration on Aging and USDA, where USDA now successfully purchases and transports surplus commodities to institutions which participate in the nutrition program for the elderly, but where primary operational and policy responsibility rests with HEW.

The transfer will not harm links between the programs and nutritional research functions in USDA. In fact, the child nutrition programs really have little to do with USDA's research capabilities. For example, it wasn't until this year—the first time since 1946—that USDA began to draw upon its nutrition research and start to suggest changes in the basic meals patterns for school lunches. These research functions in behalf of child nutrition programs currently comprise only a handful of person-years and can and should continue to be made available to these programs after their transfer. USDA now undertakes more research for programs outside that Department. Further, there are other Federal agencies conducing nutrition research, and the committee believes the child nutrition programs would benefit from their assistance. One of the most active is the National Institutes of Health. The committee is directing that the Department of Agriculture as well as other Federal agencies to make available their expertice to the Secretary of Education and the Assistant Secretary for Child Nutrition.

USDA's ability to effectively develop a workable food and nutrition policy will not be hindered by the transfer. The Committee believes the transfer of child nutrition programs to the Department of Education will not affect the basic mission of USDA, and should not be interpreted as a diminution of that Department. School feeding programs are no more central to the development of food and nutrition policy than are Armed Forces feeding operations, or cafeterias overseen by the General Services Administration. Almost $7 billion worth of nutrition programs will remain in USDA after the school lunch transfer, including nutrition research, food inspection, the Extension Service, domestic food assistance programs such as food stamps, and overseas food donation programs.

USDA will continue to be a strong Cabinet Department. The child nutrition transfer involves less than 1 percent of USDA's total staff. Budgetwise, USDA will be larger than six Cabinet Departments after the transfer, and equal in size to the new Department of Education. The Department of Agriculture will continue to be the "lead" agency in the Federal Government for food and agriculture.

The committee believes the Department of Education should have a strong nutrition education component. With increasing reports of more plate waste in the schools and the rising popularity of nonnutritional foods, the importance of nutrition education and better dietary awareness becomes critical. Traditionally, USDA has been reluctant to encourage States and localities to develop nutrition education in their schools. A Department of Education will be in a better position to develop and encourage nutrition education. The Department will encourage the development and dissemination to the schools of curriculums which deal with nutrition education and other life sciences.

Last year, Congress provided for a new, $27 million nutrition education program in the Child Nutrition Amendments (Public Law 95-166), where the Federal Government would encourage States and localities, through their State education agencies, to develop their own nutrition education efforts. The committee believes this program should be transferred to the Department of Education, which will have expertise in developing and recommending effective nutrition education strategies, curriculums, and information dissemination. The Nation's schools will be better able to broadly disseminate a successful nutrition education effort. The Education Department will be more familiar than USDA with the needs of the schools, and will be in a better position to expand our children's knowledge of nutrition.

The committee also believes the transfer of the nutrition education program will complement and supplement the large nutrition education efforts already ongoing in the HEW Education Division. The Congressional Research Service has identified the following programs in the Office of Education which have nutrition education components: consumer and homemaking education, vocational education, occupational home economics, adult education, school health and nutrition services for low-income families, centers and services for blind-deaf children, and programs for the education of handicapped children.

Finally the committee believes the transfer of child nutrition programs is important to the creation of an effective Department of Education. One important reason for establishing the new Department is that existing fragmented and scattered Federal education effort is in need of real consolidation. The present situation is one where the Nation's school officials are forced to go from agency to agency in the Federal Government to piece together their financial assistance package. USDA and the Office of Education supply most of the Federal aid that goes to our schools.

They also impose the most time-consuming, costly regulations and paperwork. A Federal Department of Education should, as much as possible, encompass the programs that primarily support our schools. Education is a broad activity which should not be limited solely to the classroom. Nutrition and school lunches are on important part of the school day, and the educational experience. Our students will benefit from the inclusion of USDA's child nutrition programs in the Department of Education.

DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS SCHOOLS

The committee recommends the transfer of the Department of Defense (DOD) overseas dependents schools system to the new Department of Education, and believes their inclusion in the Department will allow for the improvement of the education of their students.

As the American role in world affairs grew after the Second World War, so did the need for providing a quality education for the dependents of military personnel stationed overseas. Today, there are 267 DOD dependents schools scattered across 24 different foreign countries serving approximately 135,000 students. The fiscal year 1979 budget estimate for the Schools is $307 million. Altogether, about 10,000 employees are involved in the school system.

Unfortunately, the DOD schools have never been fully statutorily authorized. In the more than 30 years of their "temporary" existence, the DOD schools' authorization has been contained in appropriations bills—normally less than a paragraph of legislative language. Direction and guidance from the Congress has come in the form of detailed committee reports.

The committee believes more attention and oversight is needed for this important school system. S. 991 provides, for the first time, a workable legislative base upon which to build. The legislation establishes an Office of Education for Overseas Dependent Children, to be headed by a high-level Administrator who will report directly to the Secretary of Education.

The schools will represent a major responsibility of the Department of Education. If located within the continental United States, the system would rank as the 12th largest among the Nation's public school districts. The quality of the schools should improve and prosper in the new environment.

The committee finds that the primary purpose and goals of the DOD schools are more in line with those of the Department of Education than the Department of Defense. Obviously, the primary mission of the Defense Department is not education. The schools' budgets are considered along with the rest of the DOD budget, where often there is a limited understanding of the intricacies of operating so large a school system. Although the immediate staff of the DOD schools is made up of professional educators, the top officials in DOD normally have little or no expertise in the field of education. The Department of Education, in contrast, will be the Federal agency having direct contact with in American education.

The DOD schools do not prepare its students necessarily for any purposes related to the military. The schools are regular American public and elementary public schools, serving children from kindergarten through high school. The expertise and research findings in education will be more readily accessible in the Education, not the Defense Department.

Further, the DOD schools should not, by any means, be isolated from the rest of American education. Locating the schools in the Department of Education would help ease the transition of its students to the public schools in the continental United States. There is considerable movement between the DOD and the American public schools. Terms of duty for most military personnel average about 3 years overseas. It is both necessary and desirable to provide a sense of continuity for students going from one system to another. The Department of Education will be more attuned to the ever-changing trends in American education, and provide the Administrator of the overseas schools valuable assistance in sensing, adjusting, and responding to these trends.

The committee expects the Secretary of Education will use his or her powers to make available to the schools the vast educational resources in the new Department. The Schools should be allowed to participate in a wide range of education programs not now open to them. The Secretary should make strong efforts to encourage the participation of the DOD Schools in school nutrition programs, vocational education programs, services for the education of the handicapped and gifted children, library and academic facilities improvement, research functions, and other programs which would benefit the Schools.

The transfer of the DOD schools should be conducted with a minimum of disruption. The legislation provides for a 3-year "phase-in" period, during which time the Secretary is required to develop a comprehensive plan for effecting the transfer. The continued efficient operation of the schools is very important, and will require a careful analysis before the transfer plan is actually designed and executed. During the transition period, the committee is directing the Secretary of Education and the Secretary of Defense to work closely and harmoniously to assure a smooth transfer of the schools and avoid any disruption to or deterioration of the education programs conducted in the schools. Section 505(a) insures the agreements between the schools' present administration and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer.

The committee believes the reorganization of the DOD schools which is currently underway should continue, and should not be disrupted during the transition period.

As the Secretary develops the plan for transfer of the schools, the committee is directing that such plan shall include recommendations for increasing parent, student, educator, military, and school administrator participation in the operation of the schools. The committee is concerned with the lack of a responsive, decentralized method in running the schools. The committee suggests the Secretary investigate the practicality and feasibility of the creation of an advisory board or commission, made up of parents, students, educators, school administrators, and the military, which could assume some measure of input over operation and policy responsibilities for the school system. Such a board would facilitate logistical support by including military personnel as members to insure cooperation by the various armed services and the local base commander. The board could act as an effective insulator to minimize the direct involvement in the future of the Secretary in the schools. And, the board would provide real opportunities for guaranteeing that parents, students, educators, school administrators, and military personnel would have substantial input in the policies of their schools, much in the same way State or local boards of education do in the continental United States.

The committee feels the transfer of the DOD schools to the Department of Education will broaden the scope of the Department, improve the quality of the schools, and most importantly, improve the quality of education for students who attend the schools. The Federal Government has a clear obligation to provide an education of equal or superior quality for the dependents of military personnel.

INDIAN EDUCATION

S. 991 provides for the consolidation of Federal Indian education functions and programs in a new Office of Indian Education in the Department of Education. The new Office would be headed by an Assistant Secretary for Indian Education.

Presently, two different Federal agencies have significant responsibilities for educating Indian students. The Bureau of Indian Affairs operates an extensive education effort for American Indians, Alaskan Natives, and Aleuts. Altogether, the BIA oversees some 220 elementary and secondary schools and three post secondary institutions serving over 50,000 Indian students at a cost of more than $162 million in 1978. In addition, the BIA has large grant programs for aid to public schools serving Indian people ($35 million) and for continuing education ($41 million). The Office of Indian Education in HEW's Office of Education also administers programs that give aid to public schools serving Indian students, and awards funds for special projects in elementary, secondary, and adult education. The total budget for this Office is approximately $60 million in 1978. It is important to note, also, that OE contributes large amounts of money to public school systems—more than $120 million in 1978—for educating Indian students under two primary grant programs: impact aid and ESEA grants for disadvantaged students. OE also contributes about $25 million per year for higher education assistance. Consequently, the total Federal aid to Indian education is more than $500 million annually, split nearly evenly between HEW and BIA.

The legislation would transfer all education functions of the BIA to the new Office of Indian Education in the Education Department. Also, all functions of the Indian Education Office now in OE would be transferred to the new Office.

Generally, the committee believes the overriding reason for the consolidation is the disturbingly poor condition of Indian education. It progresses at a snail's pace under the BIA and OE. Achievement rates of Indian students are much lower than those of other American students. Today, more than 50 percent of Indian students entering elementary school will have dropped out by the time they reach secondary school. At the post secondary level, the Indian dropout rates exceed 75 percent. The quality of both BIA and public schools on or near reservations is extremely poor in most cases.

The Federal Government is obligated, legally and morally, to provide Indian people educational services of equal quality to those afforded other American citizens. But the BIA has a poor record of providing quality educational services to Indian people.

A review of the history of the past performance of the BIA will reveal little justification for leaving education programs in that agency. Education has not been a priority at the BIA for the last 100 years. The Bureau has institutional deficiencies which thwart the administration and development of an effective Indian education effort. Education is only one of several BIA area office functions and responsibilities. BIA area directors are often able to reprogram education funds to other unrelated uses. Many do not view education as an important responsibility. In the BIA organizational setup, the area directors report to the Assistant Secretary for Indian Affairs. The BIA Director of Education, based in Washington, has no authority over area directors.

The primary mission of either the Department of the Interior or the Bureau of Indian Affairs is not education. The internal budget processes of both the BIA and the Department have treated harshly Indian education in the past. There has been a discouraging lack of involvement of Indian people by the BIA in either budget considerations or long-term planning.

The committee also finds that the fragmentation of Federal Indian education programs between two agencies inhibits the development of a comprehensive strategy for Indian education. There is little, if any, coordination between the BIA and OE. The persisting poor condition of Indian education necessitates a cohesive remedial policy on the Federal level.

Further, this fragmentation means there is no, one high-ranking official in the Federal government who speaks for Indian education, or who has the clout to tackle these tough problems and challenges. Presently, there exists a Deputy Commissioner for Indian Education in OE, and a Director of Education in BIA. Both are submerged in their bureaucracies, and their voices cannot be strong. The job is particularly frustrating in the BIA, where there has been rapid turnover in the position of BIA Director of Education. Since 1966, the overall average length of tenure of the BIA Director has been just 9 months. Through the creation of the post of Assistant Secretary of Indian Education in the new Department of Education, one individual could focus in on the crucial problems still ahead in Indian education, and with this high-level position, individuals with high qualifications would be attracted to fill such an important slot.

The committee is concerned about reports that Indian people still have little influence or control over their education. Increased local control is vital to the success of Indian education. Indian representation on public school boards has been slow to develop. Under the BIA, fewer than 35 tribes have contacted with the BIA for school operations. The Bureau has slowly implemented the congressionally mandated policy of Indian self-determination in education. The committee feels strongly a major objective of the new Office of Indian Education in the Department of Education should be increased local control of Indian education by Indian people.

Postsecondary educational assistance to American Indians, Alaskan natives, and Aleuts needs more direction and development. Although some real gains have been made in recent years, still a disproportionately large number of Indian people do not go on to some form of higher education. In addition, the disturbingly high dropout rates indicate the BIA postsecondary education programs are poorly run. Transfer to the Department of Education should provide for a stronger, coordinated focus on Indian higher education problems and programs.

Of major importance is for the Department of Education to recognize the unique and special needs of American Indians, Alaskan Natives, and Aleuts. The committee is directing the new Department to recognize and respect the special legal relationship—the trust responsibility—which exists between the Federal Government and Indian tribes. The committee believes the creation of the new Office of Indian Education in the Department of Education will strengthen the trust responsibility. The prevalence of socioeconomic and educational disadvantage among Indians make the provision of adequate services by the Federal Government vital.

In our consideration of the legislation, the committee actively solicited the comments and input of more than 350 Indian tribes and organizations across the country. The legislation, as reported, goes far towards meeting nearly all of the Indian community's concerns.

Specifically, the bill sets up a distinct, tangible office within the Department devoted solely to the special concerns of Indian education. The Office and its Presidentially appointed Assistant Secretary will report directly to the Secretary of Education. Both will be on an equal footing with other educational interests in the new Department. The existing BIA education programs will be specifically transferred to the new Office, and will not be "lost" in the Department.

The legislation stipulates the transfer of Indian education programs to the Department of Education will not alter the trust responsibility. Again, the Department and the Secretary of Education are expected to recognize their special, legal, and unique requirements to meet the needs of Indian people. They are bound by law to respect the trust responsibility. The committee will be carefully monitoring the Department of Education's adherence to the trust responsibility.

The transfer of Indian education functions will not change the existing eligibility standards for both the BIA and the OE programs. Presently, the BIA serves only Indian tribes recognized officially by the Federal government. OE uses the same eligibility standard for its impact aid programs, but for other programs uses one that is much broader and often includes Indians not federally recognized. While the committee sees the need for tightening the definition of "Indian" used by OE, it is not in our jurisdiction or our field of expertise to make a substantive policy change. The legislation forbids the changing of either definition by the transfer. The committee believes the issue of how to define an "Indian" is better left to the Indian people and the authorizing committees in Congress to decide. The committee expects the transferred BIA programs will continue to service federally recognized tribes exclusively.

The new Office of Indian Education will be governed by existing Indian preference laws in the hiring of its employees. The committee expects the Assistant Secretary for Indian Education will go to great lengths to promote Indian preference in the Office's programs and services, which would go a long way towards instituting more Indian control over Indian education. The Assistant Secretary should make strong efforts to select highly qualified Indian people to fill positions in the Office. The committee is aware of the problems created by sometimes restrictive civil service requirements in federally funded programs affecting Indian people. The Assistant Secretary and the Secretary of Education, in submitting their comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts, should make recommendations to Congress for improving the efficiency and effectiveness of personnel in Indian education services operated by the Federal government.

Great care should be taken in the selection of the Assistant Secretary for Indian Education. The committee expects such an individual will be of Indian, Alaska Native, or Aleutian origin. The President, in selecting a person for this important position, should consult widely with Indian tribes and organizations. The Assistant Secretary should have impressive qualifications and much experience in Indian education. The Assistant Secretary should be afforded sufficient latitude in the Department of Education to actively promote the interests of Indian education throughout the entire Department.

The legislation amends the Indian Self-Determination and Education Assistance Act to make its provisions fully applicable to the new Department. Self-determination is an important concept to the Indian people. It enables Indian tribes to contract services normally provided directly by the Federal Government and operate them on their own. The committee believes self-determination and the contracting authority are important and critical tools for instituting more local control of education by Indian people. The new Department is expected to cooperate fully with the law and encourage Indian tribes to contract these services. The Department and the Office of Indian Education should make special efforts to assist tribes with the necessary technical assistance to operate these programs. It is important that the contracting authorized under the Self-Determination Act be administered with as few burdensome restrictions as possible. The new Department should make sincere efforts to minimize contracting problems, such as making arrangements to cover startup costs and determine tribal funding needs in advance.

The bill directs the Secretary of Education and the Assistant Secretary to institute more local control of Indian education by Indian people. Primary policy responsibility for schools should reside with the local community. The committee believes the new Department should institute more direct funding of Indian education programs with as few strings as possible. Funds, functions, or programs administered by the Office of Indian Education in the new Department should not be channeled through State education agencies. A direct relationship between the Office and the tribes will result in fewer rules, regulations, and unnecessary paperwork.

S. 991 requires consultation and coordination between the two top Federal Indian officials—the Assistant Secretary of Indian Affairs in BIA, and the Assistant Secretary for Indian Education. The BIA will continue to be the "lead" agency in the Federal Government for Indian affairs. Important trust protection, advocacy, and natural resource functions would stay in the Bureau.

Indian tribes have a unique relationship to civil rights laws, and members of those tribes enjoy a special status. The special Government-to-Government relationship between the Federal Government and the tribes exempts Indians and Indian tribes from certain civil rights restrictions. Indian preference in personnel actions, for example, is based on this special relationship. At the same time, Indians as citizens are entitled to the protection of the civil rights statutes. The committee believes this special dual status requires a special expertise, and that the Secretary should consider establishing a separate division for Indian education in the new Department's Office for Civil Rights.

Finally, the legislation provides for a 3-year "phase-in" period for the BIA school system. It is important that the transfer of the operation of these schools to the new Department be conducted with little disruption and much consultation with Indian people. The bill calls for the development of a comprehensive study for effecting the transfer of the schools. The Assistant Secretary for Indian Education should make a strong effort to seek the advice and counsel of Indians, Alaskan natives, and Aleuts and involve them in planning for the transfer. In carrying out the transfer, the committee expects that all support services necessary for the effective and efficient operation of the schools be also transferred, including construction planning and oversight, general planning and evaluation personnel, and other incidental administrative and support personnel.

In conducting the comprehensive study of transfer, the committee directs the Secretary and the Assistant Secretary to fully investigate and report back to Congress the feasibility of and possible proposal for the creation of an advisory Indian education review panel. The committee believes there is a strong need for insuring Indian people's input into Indian education policies and programs at the Federal level. The proposal for an all-Indian board or commission should be developed in full consultation with Indian people and, if recommended, should be established as soon as is practicable. The committee has been impressed with the diligence of effort and expertise of the National Advisory Council on Indian Education, established by the Indian Education Act. NACIE provides a valuable service to the Congress in the form of an effective forum for the exchange of ideas and information. At the present, however, NACIE is primarily charged with advising the OE Office of Indian Education on its programs and services. The committee believes the possibility of using NACIE as the vehicle for advising and reviewing the policies of the entire new Office of Indian Education in the Department of Education should be considered.

The committee has assured all American Indians, Alaskan Natives, and Aleuts this proposed consolidation is not a move toward termination of the Federal trust responsibility. The legislation goes far to meet and safeguard their special interests. It is a renewed deep, and sincere effort to improve the quality of Indian education, and ultimately, the quality of life for Indian people. Throughout the findings, purposes, and functions sections of the legislation, the importance of tribal governments and Indian people in the process of education is emphasized. The committee is directing the Department of Education to devote special attention, and a good portion of its resources, to to the needs of Indian students.

SCIENCE EDUCATION

The Department will assume the administration of a number of science education programs presently located within the Science Education Directorate of the National Science Foundation (NSF).

S. 991 insures appropriate placement for the science education programs by transferring them specifically and intact to the Office of Educational Research and Improvement. Within such an organizational structure the science and technology programs would constitute approximately one-fourth of the R. & D. programs categorized and administered by this Office. The committee expects science education to be both a visible and substantial component in the new Department, as well as a special entity which will complement science and technology initiatives supported by the NSF and other science and research agencies.

Transfer of these programs will enable the Department to take an active role in assisting the improvement of the quality of science teaching in schools and in undergraduate postsecondary institutions, as well as in improving public understanding and science literacy among the general public. The Department will assume primary responsibility, not only for the specific science programs transferred, but for the conduct of studies, surveys, and evaluations relating to the quality of science teaching and learning and improved public understanding of science. Dissemination of science curricular materials and teaching practices should become a departmental priority.

A science education unit in the Department is expected to assist in enhancing the quality of school science programs and the quality of teaching and to eliminate unnecessary overlap between education programs supported by NSF and the authorities administered by HEW's Education Division.

The Education Division supports projects worth millions of dollars which deal with science education and curricular development (for example, environmental education, metric education, ESEA, and emergency school aid science and math projects) and supports research relating to teaching subjects including science, math, and the use of instructional technologies. Thus, apart from the NSF science education programs, the Department of Education will administer hundreds of millions of dollars for science-related and mathematics programs. The substantive quality of science and math curricular research and development programs will be assured by the direct involvement and assistance of scientists and science educators who will serve as staff, reviewers and consultants. The success of the Department of Education will depend a good deal on the extent to which scientists, social scientists, university researchers, and academicians participate in the Department's activities. These programs, along with those of science education, are expected to give strong impetus to science education in the new Department.

Declines in science achievement over the past decade have required renewed attention. Achievement in science, as measured by various national surveys and standardized tests, has steadily declined. Many science and mathematics teachers admit to having been inadequately trained. According to the recent report from the National Assessment of Educational Progress (NAEP), high school "youths continue their downward trend in science despite the ever-growing demands of a technological society."

A strong commitment to science education will necessitate the placement and support for a strong and visible organizational entity in the Department which concentrates attention and resources on science improvemet. This unit will be located within the Office of Educational Research and Improvement and parallel other major efforts which focus on basic and applied research. postsecondary education improvement, and other program units which report directly to the Assistant Secretary for Research and Improvement.

The NSF programs transferred in the legislation represent approximately $56.3 million out of the entire $77.6 million fiscal year 1979 request) for the Science Education Directorate in NSF and will require the transfer of no more than 90 personnel.

S. 991, as originally introduced, transferred the entire NSF Science Directorate to the Department. S. 991, as reported, is consistent with the President's proposal for reorganization. Only those programs aimed primarily at students and teachers in the elementary and secondary and undergraduate institutions will be transferred to the new Department. The programs which would remain at NSF include those aimed at recruiting and training scientific researchers, those programs requiring direct participation of scientists, and those which provide science information and assistance to citizen groups. The programs transferred are the following:

> *Teacher training.*—These programs are primarily designed to assist in improving and updating the quality of experienced elementary and secondary school or teachers at all levels. Since the early 1950's, these workshops and institute-type programs have been extremely popular among teachers, and in 1979 some 18,000 persons will participate.
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> *Student oriented.*—These programs are directed at identifying, teaching, and involving (in laboratory and clinical settings) some of the Nation's most talented high school students In 1979, some 5,000 students will participate in these programs, many of whom will be minorities and females who will receive encouragement to enter scientific fields.
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> *Institutional support.*—These programs provide funds for improving institutional facilities and equipment, primarily at 2- and 4-year colleges, including undergraduate colleges which serve blacks and other minority groups.
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> *Science education research and development.*—These programs emphasize assistance in developing innovative curricula and technologies and designing science programs for all youths and adults, including those created exclusively for the gifted and talented in preschools, schools, and undergraduate institutions, or in nontraditional settings.
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> *Public understanding of science programs.*—These programs are designed to assist in improving the public's understanding of scientific principles and technological content which may be involved in broader public policy and political issues. These public understanding programs rely more on the use of television, radio,

and museums than on traditional school programs. For example, Children's Television Workshop, the producer of "Sesame Street," will develop a science education series for children aged 8 to 12 in 1979.

However, certain public understanding of science projects, for example, those requiring a more direct involvement participation of the scientific community, will remain in NSF, as described below.

The transfer of the existing science education programs from the NSF to the Department will not have the effect of amending Public Law 81–507, authorizing the creation of the National Science Foundation and the Science Education Directorate. The NSF will continue to assume responsibility for strengthening scientific research and may initiate new scientific programs and projects which relate to personnel and institutional development and public understanding, when they draw upon the scientific expertise of that agency.

The NSF will maintain its primary educational function by continuing its support for fellowships and traineeships closely associated with graduate and postdoctoral research programs. NSF will also retain responsibility for special graduate fellowships and traineeships for students and faculty in minority institutions and for other efforts which provide support for underrepresented individuals, that is, ethnic minorities, women, handicapped persons, who have the desire and potential to enter scientific and research careers, or to enroll in graduate schools, colleges, and universities to pursue scientific careers. The National Science Foundation will also retain its responsibility for sponsoring basic and fundamental reseach that may relate to education and to human growth and development. Studies in cognitive development, linguistics, and those relating to various social science disciplines will continue to be promoted and funded by the appropriate Directorates within the NSF.

Project activities under the science and society program will continue to be administered in the Foundation, with the exception of certain activities relating to public understanding, which will be a shared responsibility among a number of Federal agencies. The science and society program is intended to bring about greater understanding and improvement to the relationship between the scientific and technological communities and to the larger society. Improving the public's understanding of complex science and technological principles and information often requires the direct involvement and participation of top scientific and technical expertise. As a result, the committee feels the NSF should not be discharged from this set of activities. Much of this effort helps to assure the involvement of the research and academic communities in contemporary debates on public and social policy. This effort provides important assistance to public-interest groups seeking scientific and technical expertise and also examines ethical and value issues in science and technology.

The committee shares the concerns which have been expressed over maintaining the quality and relevance of the content of science education teaching and materias, as well as those relating to general attitudes toward and appreciation of science and the work of scientists. Presently, there is a relatively high degree of public confidence in the abiltiy of scientists and technologists to solve some of society's major problems. The attitude that prevails in our Nation today about the importance of the work of the scientific enterprise and its professionals is due partly to the quality of science teaching and the attitudes toward science which schools and colleges engender.

However, the committee recognizes the problems associated with expressions of distrust and disenchantment, regarding the benefits of technological advancement and scientific research. Improvements in the quality of science programs in schools and educational activities directed to the general public can provide the general public with the background necessary to participate effectively in decisions affecting the work of the scientific communities.

The Department should work closely with NSF and with other scientific agencies, institutions, and associations to improve contacts between the scientific and nonscientific communities and between scientists and professional educators. Assurances in these directions will ultimately lead to improved public understanding of and appreciation for science.

NSF's enabling legislation requires the agency "to evaluate the status and needs of the various sciences as evidenced by programs, projects, and studies undertaken by agencies of the Federal Government," and to evaluate "the research and education programs undertaken or supported by the agencies of the Federal Government." In carrying out these mandates, the NSF should monitor the science-related policies and efforts of the Department of Education, just as it monitors the research and science education programs of other Federal departments and agencies.

Philip M. Smith, Assistant Director of the Office of Science and Technology Policy, stated his view to the committee on the relationship of NSF to the Department of Education:

> The safeguard is that NSF would retain its current broad statutory authority for support of science education. NSF would complement Department of Education activities by focusing on innovative projects that tap scientific resources to invigorate the content of science education. A Department of Education could therefore provide NSF with new opportunities to initiate innovative and highly experimental activities needing testing prior to their application.[10]

NSF will continue to support basic or fundamental research relating to education and to initiate proposals for research, training, or developmental projects relating to education when it feels such an activity is in the national interest and within the scope of its mission and agency mandate "to promote the progress of science."

The committee urges the Secretary of the new Department and the Director of NSF in consultation with the Director of the Office of Science and Technology Policy to consider the creation of a special ad hoc committee to prepare immediately a policy guidance memorandum (memorandum of understanding) with respect to the roles of NSF and the Department in supporting science education activities in general and the specific policies and procedures for continuing and/or extending the science education programs transferred from NSF.

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[10] Philip M. Smith, testimony, hearings, before Senate Governmental Affairs Committee on S. 991, Apr. 18, 1978.

A more comprehensive strategy for examining ways to improve science education should also be initiated and prepared by an interagency group of specialists under the direction of the Federal Interagency Committe on Education, and with analytic support from the National Center for Education Statistics. Such a strategy should consider an overall assessment of the quality and availability of resources involved in teaching and communicating scientific information. It should identify the amount and quality of Federal, State, and local resources directed to science education in schools and undergraduate institutions, and most importantly, it should assess the performance of students participating in science educational programs, as well as the levels of science literacy among the general citizenry. Special analysis should account for the extent to which disparities exist among performances of individuals in special groups, demographic areas, or certain educational institutional settings. Analysis of these problems may require outside consultative and evaluation services, commencement of specialized policy studies of previous research findings, and a utilization and interpretation of recent studies and surveys, such as those conducted under the National Assessment for Educational Progress, or for the National Science Board.

Finally, the committee urges the Secretary to make extensive use of scientific talent among the academic and university communities. Limitations of salary and expense (S. & E.) funds often preclude more direct outside participation in planning, budgeting, and evaluation activities. Nevertheless, the committee feels strongly that immediate steps and plans need to be developed by the Secretary to assure the direct and continued involvement of the scientific community in the development of general science-related policies, in specific tasks associated with the evaluation of competitive grant and contract applications, and in the monitoring of ongoing science education projects, institutes, and dissemination efforts.

The participation of both scientists and social scientists should not be limited to the administration and direction of the science education programs transferred from NSF. The Secretary should involve professionals from the academic communities in all program-support activities that relate to scientific teaching and learning, and in all policy planning and developmental activities which would benefit by input from the academic disciplines and from expertise of persons with scientific understanding and methodology skills.

The committee expects the Secretary to make use of provisions of this act which govern appointments and compensation with respect to scientific and technical personnel. A major factor for the success and influence of NSF's science education efforts has been attributed to its strong commitment to the steady rotation of scientists from the field into the agency. Continued use of noncompetitive appointments should be based on highly selective skills or knowledge which may not be available in the agency as well as a general desire to have notable and competent science educators functioning within the agency at all times. Technical assistance to other Federal education program managers and project officers and to other interested groups or individuals concerning science education should be a significant departmental function apart from the funding of programs. Transfer of personnel from NSF to the Department should help to build the nucleus of a cadre of expert science educators. An immediate review of staffing requirements for the science education activities should be undertaken.

Finally, the Secretary should also make note of the committee's concern for the organizational placement of the science programs being transferred. The committee recommends that a supergrade-level person with a strong science background should directly supervise the science program activities.

HUD COLLEGE HOUSING PROGRAM

The committee recommends the transfer of the college housing program, presently administered by the Department of Housing and Urban Development (HUD).

The college housing program was created by title IV of the Housing Act of 1950, as amended, to assist higher educational institutions, through long-term Federal loans, in the construction, expansion, or rehabilitation of dormitories, dining halls, student unions, infirmaries, and other campus housing. The program's budget for fiscal year 1978 was $111 million. Interest rates for the loans average about 3 percent. More than $3 billion in loans to publicly operated postsecondary educational institutions are still outstanding. For the private institutions participating in the program, nearly $2 billion are outstanding.

Generally, the committee believes the transfer of the HUD college housing program would allow for the development of a consolidated assistance program for construction of higher education facilities. There already exists in the Office of Education the higher education facilities loan and insurance fund, the purpose of which falls into line closely with the college housing program.

The committee further believes it will be important that the present high level of efficiency of operation of the program not be disturbed by the transfer. HUD now uses complex legal agreements and procedures for operating the program, and their transfer should be carried out with a minimum of disruption and burdensome changes. The committee recommends the Department of Education continue to use the services of the Federal Reserve Bank as the fiscal agent for the Department. Coordination between the Department and the FRB should be close and strong during and after the transition period.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

The bill provides for the establishment of an Intergovernmental Advisory Council on Education. Helen Wise, member of the Pennsylvania State House of Representatives, commented that the Department of Education "presents an important opportunity to improve Federal-State and Federal-local relations in education programs and policymaking." She further stated:

> Federal sensitivity to State and local concerns in the area are absolutely essential . . . If the legitimate Federal role is to be most effective, then the Federal executive branch and State and local governments must have the maximum opportunity to understand one another.

The Council will provide such a forum for representatives of State and local government to discuss and impact on Federal education programs and policies.

The Council will advise the Secretary and the President on intergovernmental problems, progress, and concerns regarding education and intergovernmental relations. It will serve as a strong influence at the Federal level which recognizes the primary responsibility for education resides with State, local, and tribal governments, public, nonpublic, and private institutions. OMB Director James McIntyre's testimony before the committee in support of an Intergovernmental Advisory Council suggested it would improve the intergovernmental system for developing and carrying out education policies.

Appointed to the Council by the President would be 22 nonpartisan representatives from State and local government, State and local educational agencies, and private citizens, including citizens, students, and nonpublic institution representatives.

The committee recognizes that Federal education policy has expanded dramatically without an assessment of the resulting changes and impact at the State and local levels. The creation of an Intergovernmental Advisory Council on Education provides opportunities to solve existing problems in education. The Council should be a vehicle for improving intergovernmental relations by highlighting intergovernmental issues. It will provide a forum for all parties having intergovernmental interests to assess the Federal Government's impact upon education policy. It will be in a position to encourage improved management of education at all levels and insure that the Department will be responsive to a wide range of interests.

The Department itself will be served by the Council. The effectiveness of most Federal programs repends upon the delivery of the service of those programs at the State or local level where the Federal Government has limited authority. The widely-scattered education programs have caused confusion for State, local, and private agencies with respect to fragmentation and duplication at the Federal level. Testimony before the committee by Lubbie Harper, Jr., executive assistant for the New Haven Public Schools, commented on the disparity between State and Federal guidelines. State agencies must deal with a myriad of agencies at the Federal level which often result in excessive amounts of paperwork requirements. The Council will provide a mechanism for involving the public to facilitate intergovernmental coordination. It will assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is not intended to be a buffer between the Secretary of Education and the President or Congress, nor is it expected to be involved in the day-to-day operations of the Department or in the annual budget process. Its purpose is to work toward the attainment of Federal, State, and local educational objectives. Its focus should be upon the long-term health of the intergovernmental system for managing education.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

There is a strong need for effective coordination of education programs in the Federal Government. The committee believes a useful tool for the Secretary of Education in achieving this coordination will be the Federal Interagency Committee on Education (FICE).

FICE was first created by an Executive order issued by President Johnson in October 1964, and later revised and updated in another issued by President Nixon in January 1974. In both cases, the FICE was created because:

> Continued close coordination of Federal educational activities will facilitate the resolution of common problems and otherwise promote effective planning and management of (education) activities.

Through the creation of the Department of Education, the Congress will be taking a giant step toward consolidating a widely scattered, badly fragmented Federal education effort. Although the Department will, as provided for in S. 991, consolidate more than 170 education programs, there will still be other education programs in various Federal agencies. Coordination of these programs with those of the Department of Education will be an important function of the Secretary.

One such example would be in the area of international education. Increasing global interdependence hastened by exchanges of ideas, people, technology, natural resources, and culture make international education an increasing part of the learning experience of all Americans. The establishment of FICE will provide an excellent vehicle for the Secretary of Education, who has primary responsibility for internal activities, to work with the Director of the International Communication Agency (ICA) who has primary responsibility for coordinating external activities in education and cultural affairs to propose and coordinate strategies for improving programs in international education.

For higher education, the importance of a strong FICE increases. As Charles Saunders of the American Council on Education told the committee:

> The higher education community has had more interest in other programs elsewhere in the government than in the (HEW) Education Division. But at the same time, the need to coordinate the relationship across the government still remains very acute.

At the present the existing nonstatutory FICE does not function at the Secretary level. The chairperson of FICE is the Assistant Secretary for Education. Agency representatives to the committee are often not high-ranking officials, which detracts from its effectiveness.

S. 991 elevates and upgrades FICE and gives it new prominence. The legislation mandates the chairperson shall be the Secretary of Education, thereby giving the committee Cabinet-level leadership. The bill names some of the key Federal agencies which must designate representatives to FICE. In addition, the Secretary can appoint other members to serve on FICE or to participate in its meetings. Other participants or members might include ACTION, ICA, and the Smithsonian Institution. The language stipulates that these individuals must be from high-ranking, policy-level positions. The committee believes this is crucial, as these members will be in a position to better implement FICE's recommendations in their specific agencies.

The legislation provides statutorily for FICE. The committee, which is charged with studying the Federal Government operation and structure with an eye towards efficiency, believes coordination will be one of the single most important tasks of the Secretary of Education. A job this important should not be left to Executive order authority, when priorities and needs change with the coming and going of different administrations. With S. 991, coordination of Federal education programs becomes a congressionally mandated priority and function.

The conduct of various studies, surveys, and evaluations relating to the overall impact and influence of Federal educational activities are also important initiatives for the Secretary to direct. The committee believes the Secretary should make great use of the FICE in conducting such studies to facilitate interagency cooperation.

RESEARCH AND IMPROVEMENT IN EDUCATION

The committee has paid particular attention to the need to provide the new Department with a strong base for its research and improvement activities. The bill establishes an Office of Educational Research and Improvement (ERI), headed by an Assistant Secretary for Educational Research and Improvement.

The Department's assistance in the development of new knowledge about the educational process, and encouragement of its use in improving education, will be a major activity of the Department of Education. Both the Administration and organizations representing educational researchers have endorsed the importance of providing for a strong research component within the new Department. James T. McIntyre, Jr., Director of the Office of Management and Budget, told the committee:

> The research and improvement functions must receive a high place in the Department, given the important role of the Federal Government in supporting such functions. We expect that by giving these functions more prominence in the new Department, the research efforts funded by the Federal Government, and the ability to disseminate information on different approaches to learning and development will be enhanced.[11]

The American Educational Research Association, in prepared testimony for the Committee, stressed that "it is necessary for education research, evaluation, development dissemination, and analysis to be structured into a position of influence within the department."

Testimony given the committee by former Commissioner of Education S. M. Brownell aptly stated the importance of such a component:

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[11] McIntyre testimony before Senate Governmental Affairs Committee on S. 991, May 1, 1978.

> In summary, I have a strong conviction that there is need for a separate education research component within the Education Department which should be able to assist and be assisted by many of the service units in the Department. But it also should have the status and resources to promote basic research in education in universities. Probably a large measure of its resources should be channeled to applied research in educational research institutes, centers or experiment stations which could be held accountable for the continuity and quality of the field testing. It would be my judgment that it would require an individual with the rank of Assistant Secretary for Educational Research to head this important function in the Department.[12]

In total, more than $700 million is spent on statistical analysis, research, development, demonstration, dissemination, and evaluation efforts in the Education Division of the Department of Health, Education, and Welfare, the National Science Foundation Science Education Directorate, and other programs that would be transferred to the new Department by S. 991.

Support for research and improvement activities are the mechanisms through which the Federal Government can least intrusively and most productively increase the capacities of State and local and private educational agencies, other levels of governments, private organizations, and individuals to improve the quality of American education.

Federal research and improvement activities: An overview

Given the importance of the Federal government's support for research in education, the committee's attention focused on numerous Federal agencies conducting educational research. The National Institute of Education (NIE) has the mandate to both conduct and coordinate educational research at all levels. The National Science Foundation, particularly through its science education programs, directs large amounts of money toward educational research, development, and improvement of science education. The Fund for the Improvement of Postsecondary Education (FIPSE) supports innovative projects in the area of post-secondary education, and the National Center for Educational Statistics (NCES) collects data, and conducts a wide range of research surveys on all aspects of education. The Office of Education administers the majority of research-related program activities in the Education Division, for example, operating programs in vocational education, education of the handicapped, and titles I, III, IV, VII of the Elementary and Secondary Education Act, support applied research and demonstrations designed to improve educational practice.

The committee is convinced that a much more rational organizational structure should be designed for the plethora of Federal efforts to support analysis, investigation, and improvement of our educational system. Moreover, the research and improvement activities of the Federal Government need to be more effective and efficiently managed.

An Office of Educational Research and Improvement

S. 991 establishes an Office for Educational Research and Improvement, in order to correct problems with, and build on the strengths of, current research and improvement activities at the Federal level. The Office will be headed by an Assistant Secretary (executive level IV).

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[12] Op. cit., Brownell testimony, hearings, Oct. 13, p. 323.

In establishing an Office of ERI, the committee is both certifying the role and elevating the priority of Federal R. & D. activities which are designed to improve education, public understanding, and the capacities of educational institutions at all levels.

The new Office will serve as an integrating and coordinating mechanism for supporting the effectiveness of a wide range of research, development, demonstration, dissemination, evaluation, analytical, and other activities facilitating change.

The committee considered several alternative ways of reorganizing these functions.

To many, the National Institute of Education appeared to be a logical base from which the Federal Government might build a more rational and comprehensive research and improvement function. The committee considered effects of expanding the National Institute of Education so as to incorporate many of the research, development, demonstration, and dissemination functions now performed by such diverse agencies as FIPSE, the science education programs of the Science Education Directorate of NSF, and many education program offices of the current Office of Education. Another proposal considered was to lapse the National Institute of Education but transfer its functions and those of other programs, to a new Institute for Educational Research and Improvement. A third approach considered in committee discussions was to reorganize the functions of the various agencies and programs transferred into several functional and distinct units within a new Institute for Educational Research and Improvement—a concept of "institutes" within a larger national institute.

However, rather than reorganize specific units at this time, the committee decided to transfer several programs intact to a new Office for Educational Research and Improvement in the Department. Section 212 establishes this Office which shall be administered by the Assistant Secretary for Educational Research and Improvement, who shall be compensated at level IV of the executive salary schedule. The functions of the Fund for the Improvement of Postsecondary Education, Federal grants for nonbroadcast telecommunications demonstration, and programs transferred from the Director of the National Science Foundation are specifically delegated to the Office of the Assistant Secretary for Educational Research and Improvement. Although the committee did not explicitly transfer the National Institute of Education or its functions to this Office, it assumes that most or all of the functions currently in the NIE do belong with other related research and improvement activities in the new Office. The Secretary may delegate such additional research and improvement duties and powers to the Assistant Secretary as are deemed appropriate.

As noted, this committee expects the Human Resources Committee to direct its attention to the reorganization of educational research and improvement functions when hearings to extend FIPSE, NIE, science education, and telecommunications program authorizations are held next year. At that time the possible relationships between the programs transferred by this legislation to the Office for Educational Research and Improvement and the overall mission of the Office for Educational Research and Improvement can be considered further.

The committee has also been made aware of the special concerns of many higher education and academic groups in wanting to preserve the integrity and quality of programs supported by the Fund for the Improvement of Postsecondary Education and by the Science Education Directorate. Clearly these programs are different from, though complementary to, those innovation-type programs funded by USOE and NIE. The needs of these programs, which are aimed mostly at improving undergraduate education, should be taken into account, and we expect the Secretary and the Assistant Secretary to work with appropriate authorizing committees and subcommittees to subsequently give these and other research and improvement programs more explicit guidance with respect to structure and function.

Criteria for assigning research and improvement functions

The bill provides authority for the Secretary to assign and reassign existing programs among units of the new Department including the research and improvement unit. The committee does not, however, intend that all demonstration, development, and dissemination activities be assigned to the Office for Educational Research and Improvement. Operating program units should retain some capacity for data collection, evaluation, and dissemination of exemplary programs. Indeed, their present capabilities to carry out these functions should be strengthened.

The central distinguishing characteristic of the functions that would be performed by the Office of Research and Improvement is that—while they complement and contribute to the effectiveness of major service-support and formula-driven Federal programs—they are not directed by the informational needs of these activities and policies.

Peer review and competitive processes should guide the allocations of most research funds.

A sufficient number of career and short-term professionals involved in research and improvement activities should be recruited by the excepted service authorities in order to facilitate flexibility and attract the best qualified persons.

Greater emphasis should be placed on developing ways to improve the dissemination of the results of research and improvement activities.

The organizational structure of the Office of Educational Research and Improvement

As noted earlier, and as the assumptions just identified imply, the Office of Educational Research and Improvement will not encompass all activites relating to research, development, dissemination, demonstrations, evaluation, and policy analysis. It will, however, encompass a substantial proportion of these activities, particularly those that support the priorities of State, local, and private educational agencies and other organizations and individuals concerned with learning more about and improving the quality of American education.

Among the existing organizational units or functions that are specifically assigned or that might be included within the Office are:

All elements of the science education programs transferred to the Department from the National Science Foundation (Assigned.)

The National Institute of Education.

The Fund for the Improvement of Postsecondary Education. (Assigned.)

The nonbroadcast telecommunications programs transferred by this bill from the Office of the Secretary of HEW to the Department. (Assigned.)

Those activities of NCES that involve longitudinal research or analysis on the condition and future of American education.

A capacity for policy-related research and evaluation studies assigned to the Office by the Congress or the Secretary.

Some existing demonstration and development programs aimed at supporting specific changes in cirriculum or science-related programs, for example, metric or environmental education.

Programs aimed at enhancing the capacity of educational institutions to change in directions they define, for example, title IV-C of ESEA, which supports innovation activities of State education agencies.

Telecommunications development activities currently scattered among numerous offices can be brought together in an effort to develop a more coherent Federal policy in this area.

Educational policy analysis studies and associated staff activities, which are also scattered among various offices and levels of the educational bureaucracy, can be brought together for the purpose of associating these tasks with the decisionmaking and planning processes.

The possibilities of improving the linkages and integration of numerous related, and sometimes overlapping program authorities are endless. The committee expects the Secretary and Assistant Secretary to develop a more cohesive framework for the myriad number of research and improvement programs.

Locating the science education programs now in NSF alongside those science-related programs currently in the Office provides an example of the potential opportunities the Office for ERI provides. The demonstration and faculty development programs in science education are consistent with and supportive of many of FIPSE's purposes. Science-related education programs currently administered by the Education Division equal in size those being transferred from the Science Education Directorate of the NSF. Improving linkages among this array of scientific programs will enrich the quality of Federal efforts to deal with the serious decline in student achievement in science and related fields.

Advisory and policy councils

Two programs transferred by the committee to the Office for Educational Research and Improvement currently have their own advisory councils: FIPSE and the science education programs transferred from NSF. The committee considered several alternatives for the reorganization of these advisory councils and the policy council, National Council for Educational Research (NCER), of the National Institute of Education.

One model considered was to have a policy council modeled after NCER for the entire Office of Educational Research and Improvement.

A second model recommended an advisory council for the entire Office of Educational Research and Improvement.[13] In both these cases, the committee considered the possibility of having subcouncils for the various programs within the Office, similar to those created under the authority of the National Science Board.

Although the committee ultimately decided it wise not to merge or change any of the existing councils, or create a new overall council for the Office, it expects the Secretary, in consultation with the Senate Human Resources Committee and the House Education and Labor Committee, to consider various alternative forms in which the functions performed by the current councils might be reorganized and strengthened.[14] The committee is convinced of the importance of "buffering" the basic and applied research functions of the Office, and suggests that this issue be considered within the context of the creation of the new Office and the Assistant Secretary position.

Concluding comments

The committee expects the Assistant Secretary for the ERI to support the policies and priorities specified in Sections 404 and 405 of the General Education Provisions Act, which relate to the Fund for the Improvement of Postsecondary Education and the National Institute of Education. Equal commitments are required for continuing R. & D. policies and activities relating to the science education programs being transferred by the bill from NSF.

The committee recognizes the need to give the Secretary of Education considerable discretion in organizing research and improvement programs in the Department, and in delegating specific programs and activities to the Office for Educational Research and Improvement. At the same time, the committee expects the Secretary to consider the committee's view of the role and activities of the Office for Research and Improvement. Moreover, in developing the character, structure and practices of the Office and in allocating research and improvement functions throughout the Department, the committee suggests the Secretary work closely with the Senate Human Resources Committee and the House Education and Labor Committee.

HEW—Special Institutions

There are presently four educationally oriented institutions over which the Department of Health, Education, and Welfare maintains budgetary oversight, and for which the Federal Government is the major source of revenue. Each of these "special institutions" have as their primary mission the education and assistance of special, handicapped, or disadvantaged constituencies.

The committee believes the transfer of the current relationship between these Special Institutions and the Federal Government to the

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[13] The draft bill considered by the committee in markup folded the functions of NIE into an Institute for Educational Research and Improvement, along with the FIPSE, science education, and telecommunications-demonstration functions. It also changed NCER's policy role to an advisory one. An amendment agreed to in committee by voice vote preserved the NIE intact, as well as the NCER and changed the proposed Institute for Educational Research and Improvement to an Office of Educational Research and Improvement. The NCER, then, would remain as a policymaking council, but only for NIE—authorized activities. This was done in order to allow the authorizing committees an opportunity to consider this question of additional reorganization further in the context of renewed authorizing legislation.

[14] Ibid.

Department of Education is a logical and wise move. The four institutions include:

> American Printing House for the Blind, located in Louisville, Ky., was established by Congress to provide educational materials to elementary and secondary school-age blind students.
>
> National Technical Institute for the Deaf, located in Rochester, N.Y., provides residential, coeducational post secondary technical education for the deaf.
>
> Gallaudet College, in Washington, an educational institution providing college preparatory, undergraduate and continuing education programs for the deaf. Gallaudet also includes the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School.
>
> Howard University, in Washington, a private nonprofit undergraduate college, graduate school and medical facility emphasizing the training of minorities in technical and professional fields.

The committee is impressed with the successes of these institutions, and recommends their association with the Federal Government continue. The missions of these four institutions will follow closely that of the Department of Education.

In the past, all four institutions agree HEW has allowed them maximum flexibility in determining their programs and content of curricula, and in experimenting with new, innovative ideas in their special educational missions. The committee strongly believes such a high degree of independence and autonomy must continue in the Department of Education.

While the responsibility for oversight of these institutions is statutorily vested in the Office of the Secretary, the committee suggests the Secretary should consider the possibility of coordinating the functions of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with those of the Office of Special Education and Rehabilitative Services in the new Department. Oversight for Howard University should be coordinated with and linked to the Office of Postsecondary Education.

USDA GRADUATE SCHOOL

The committee recommends the transfer of the USDA Graduate School to the new Department.

The Graduate School was created in 1921 and it has evolved over the years into a first-rate continuing education program benefiting nearly 30,000 employees of the Department of Agriculture, employees of other Federal agencies, and other citizens living in the Washington metropolitan area. The school receives no Federal appropriations, and its staff is not subject to civil service guidelines. The school does not exist for any purpose integrally related to the mission of the USDA. In fact, most of its students are employees of other Federal agencies, or are members of the general public. The committee believes the central purpose and goal of the Graduate School relates closely to that of the Department of Education. The new Department will be very much concerned with adult and continuing education, which is the primary rationale for the Graduate School. Further, the school will develop a more professional image by its association with an education agency, rather than an agricultural agency. The school's ties to USDA have been the source of much confusion over what it really does and what it accomplishes.

The committee expects the Secretaries of Education and Agriculture to develop a plan and set of procedures, with concurrence of the Director and Board of Trustees of the school, for transferring the administrative offices to the Department of Education. Appropriate facilities should be made available which assure that the Graduate School continues and flourishes as a nonaccrediting and continuing educational institution.

The Graduate School should remain independent and not subject to any statutory or administrative responsibilities established by this act. In no such manner should the Secretary of Education, or any other official of the Federal Government, attempt to exercise any direct influence over the curriculum, program of instruction, administration, or personnel of the Graduate School. That should remain the primary responsibility of the school's board of trustees.

The Committee assumes that the Department and its education programs will require substantial library, classroom, demonstration and audiovisual facilities, and that these facilities can be shared and utilized by the participants, faculty and students of the Graduate School.

The committee intends that the transfer of the Graduate School will not terminate or lessen educational services provided by the Graduate School to the Department of Agriculture and its employees. Nor should the change in administrative locations alter the special relationships which the Graduate School currently maintains with other Federal agencies, offices and private institutions throughout the Washington area.

Moreover, the Graduate School should continue to be maintained as an independent, nongovernmental institution and, other than indirect services accorded to its administrators and program operations, no federally appropriate funds should be used to support the ongoing operation of the Graduate School functions.

The Graduate School should also retain the prerogative to operate in its present format and under existing policies, or to sever its current physical ties with federal agencies and, thus, become a more independent, self-sufficient and autonomous educational institution. Such alterations of policies influencing or governing future directions of the Graduate School should be totally within the jurisdiction of its director, deputy director and board of trustees. This transfer should not, in any way, affect the school's by-laws or rules and regulations.

The committee believes the transfer of the Graduate School to the Department of Education will have a beneficial impact on both institutions. The committee fully expects the Graduate School will continue to expand and prosper under the new Department.

COMMITTEE ACTION

The Governmental Affairs Committee held 10 days of hearings on S. 991 during which 100 witnesses testified. The committee also held three markup sessions on July 11, 14, and 18, 1978. The bill was reported favorably by the twelve members present on July 18, with an additional three Senators voting in favor by proxy.

HEAD START

On July 11, the committee unanimously decided to delete the proposed transfer of the Head Start program from HEW to the Department of Education. On July 14 an amendment introduced on June 15 by Senator Heinz and cosponsored by Senators Javits, Percy, and Glenn pertaining to the deletion of the Head Start program was adopted in its entirety by voice vote in order to clarify the committee action on July 11. Senator Danforth was added as a cosponsor to the amendment at this time. This amendment deleted the establishment of the Office of Child Development, which would have administered the Head Start program. Its language also provided assurances that there is no other provision in the Act, relating to authority for other transfers from the Department of Health, Education and Welfare, that would provide for the transfer of Head Start.

In the committee's discussion of this amendment, it was felt that it would be inappropriate to include the Head Start program in the Department of Education. The committee recognized that Head Start provides comprehensive services including health, nutrition, education, dental, mental health, parental involvement and social services. The outstanding success of this program can be partially attributed to Head Start's unique characteristics—significant parental involvement, comprehensive services and a diverse Federal-to-local delivery system. Because it has been successful in all these program components in its present organizational location and because these services are comprehensive in nature, it was felt that its present organizational location within the Office of Human Development Services of HEW was an appropriate location for the program. The committee recommends that Head Start, thus, be maintained in its present location within the Administration for Children, Youth and Families (ACYF) and not be placed in any organizational structure where the program would be administered by State education- or welfare-oriented agencies. The unique characteristics mentioned above should be maintained and strengthened. The committee recommends that those officials in the program work closely with the Department of Education officials so that the successful Head Start model can be a guide for many of the programs in the new Department.

VOCATIONAL REHABILITATION

On July 11, the committee considered an amendment proposed by Senator Humphrey to transfer vocational rehabilitation programs from HEW to the Department of Education and to create an Office and Assistant Secretary for Special Education and Rehabilitative Services. It was passed by voice vote without objection. On July 14, the committee also approved by voice vote a clarifying amendment introduced by Senator Chiles to insure that placement of vocational rehabilitation services in a Federal education agency would not mandate similar placement at the State level.

The Humphrey amendment transfers to the Secretary the functions being administered by the Commissioner of Rehabilitation Services Administration under the Rehabilitation Act of 1973.

In addition, Senator Ribicoff introduced amendments requested by Senator Randolph to clarify the intent of the Humphrey amendment. The purpose was to ensure that the Randolph-Sheppard vending facility program and the Office of Handicapped Individuals were transferred to the Office of Special Education and Rehabilitative Services. It was clarified that it was not the intention of the Humphrey amendment to transfer Vocational Rehabilitation Services for Supplemental Security Income Beneficiaries or Vocational Rehabilitation Services for Social Security Disability Beneficiaries. The committee adopted these amendments by voice vote on July 27.

INDIAN EDUCATION

Senator Stevens introduced an amendment to delete the proposed transfer of Indian education programs from the BIA to the Department of Education. The committee voted to defeat the amendment by a rollcall vote of 3 yeas—7 nays.

Child Nutrition Programs

On July 14, Senator Percy offered an amendment to delete the proposed transfer of the child nutrition programs form USDA to the Department of Education. The amendment was defeated by a rollcall vote of 8 yeas–8 nays. [Senator Danforth requested by unanimous consent that his vote be recorded in the official record as in favor of the Percy amendment.] During the discussion of this transfer, Senator Ribicoff introduced a compromise amendment on behalf of the administration which retains the responsibility for commodity funding in the Department of Agriculture. The compromise amendment was approved by voice vote.

Intergovernmental relations

On July 18, the committee adopted a series of amendments proposed by Senators Roth and Danforth to strengthen provisions ensuring the rights of State and local governments concerning their direction over schools. The Roth-Danforth amendments also change the membership of the Intergovernmental Advisory Council on Education by providing that the President shall consult with such organizations as the National Governors Conference, National Association of Counties, the League of Cities, and the U.S. Conference of Mayors in the selection of members. The intent of the Roth-Danforth amendments is to ensure that the new Department will not try to preempt the local decision-making process and assume new powers that might infringe upon the powers of the local school boards. The committee stressed the importance of the consultation with and recommendations of the various groups involved in educational matters.

Human Resources Committee amendments

During the committee's consideration of the bill, in markup, it was agreed that the Human Resources Committee would have an additional 2-weeks to submit any amendments to the Governmental Affairs Committee. These amendments would be submitted to the Committee by Senator Javits, ranking minority member of the Human Resources Committee and also a member of the Governmental Affairs Committee. On July 27, three additional amendments were introduced by Senator

Javits on behalf of the Human Resources Committee. The first amendment deletes section 403 of the bill which authorizes the Secretary to establish, combine, or terminate advisory committees.

Section 403 provided authorization for the Secretary to establish, combine, or terminate such advisory committees as he or she deemed appropriate to carry out the functions of the Secretary or the Department. The deletion of this section would provide that provisions of the Federal Advisory Committee Act and section 448 of the General Education Provisions Act be maintained, where applicable.

Senator Percy expressed concern that some consideration be given to the proliferation of advisory committees. Senator Javits agreed to discuss this concern with Senators Pell and Williams for possible floor consideration of amendment with respect to advisory committees.

The second amendment was concerned with Section 413 which provides authority for the Secretary to allocate or reallocate functions among officers of the Department and to establish, consolidate, alter or discontinue organization entities within the Department. Section 413 was revised to specifically prohibit the reallocation of any office, bureau, unit or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity unless it is in respect to specific entities specified in section 413. If the Secretary wishes to reallocate functions or consolidate, alter or discontinue such entities, the Secretary must notify the Senate Human Resources and the House Education and Labor Committees not less than 90 days before the proposed action. The notification must include a complete statement of the action proposed to be taken.

This amendment insures that the reorganization authority provided the President with respect to reorganization of Departments is preserved as well as statutory obligations established by Congress; however, the section provides the Secretary specific limited flexibility with respect to certain offices previously within the Education Division of HEW and now transferred to Department of Education.

The third amendment further defines the planning and evaluation functions of the Department by including the development of policies to promote the efficient and coordinated administration of the Department and its programs. The amendment requires that the officer performing these functions be one of the level IV assistant secretary positions established by the bill. In addition, Section 427 would require the Secretary to also discuss in the Annual Report anticipated future progress of the Department towards the attainment of the stated findings and purposes in the bill. In the preparation of the report, the Secretary would consult with the public and hold hearings on the report after its submission to Congress.

The committee approved these amendments by voice vote.

FINAL ACTION

Senators Percy, Roth, Glenn, and Mathias were added as cosponsors of the legislation. The committee voted unanimously to report the bill favorably on July 18, agreeing to reconvene for reconsideration after the Human Resources Committee submitted its amendments. On July 27, the committee adopted by voice vote the amendments offered by Senator Javits on behalf of the Human Resources Committee.

ROLLCALL VOTES IN COMMITTEE

Rollcall votes taken during committee consideration of this legislation are as follows:

July 11, 1978

Vote on Stevens amendment to delete the proposed transfer of BIA education programs: 3 yeas—7 nays.

YEAS	NAYS
Humphrey	Nunn
Stevens	Sasser
Chiles	Percy
Jackson[1]	Danforth
	Ribicoff
	Javits
	(Proxy):
	Muskie

July 14, 1978

Vote on Percy amendment to delete the proposed transfer of child nutrition programs: 8 yeas—8 nays.

YEAS	NAYS
Chiles	Ribicoff
Nunn	Javits
Percy	Heinz
Danforth[2]	(Proxy):
(Proxy):	Muskie
Jackson	Glenn
Eagleton	Sasser
Humphrey	Stevens
Roth	Mathias

July 18, 1978

Final passage: Ordered reported:[3] 12 yeas—0 nays.

YEAS	NAYS
Eagleton	
Chiles	
Sasser	
Nunn	
Humphrey	
Percy	
Javits	
Roth	
Danforth	
Heinz	
Ribicoff	
Glenn	
(Proxy)	
Jackson	
Muskie	

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[1] Senator Jackson requested to be recorded as voting yea.

[2] By unanimous consent, Senator Danforth was recorded as voting yea.

[3] Committee rules provide that on "Final Passage" proxies may be allowed solely for the purpose of recording a member's position on the pending question.

JULY 27, 1978

Those in attendance during voice vote on Javits amendments:

Muskie
Eagleton
Chiles
Sasser
Percy
Javits
Danforth
Heinz
Ribicoff

SECTION-BY-SECTION ANALYSIS OF S. 991

TITLE I—GENERAL PROVISIONS

Section 101. Statement of Findings

Section 101 sets forth the findings of the Congress that (1) education is fundamental to the growth and achievement of the Nation; (2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities; (3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local and tribal governmental, public and nonpublic educational institutions, communities and families; (4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative and often inconsistent Federal policies relating to education; (5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions; (6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands; (7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education; and (8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and it is in the public interest and will promote the general welfare of the United States to establish a Department of Education.

Section 102. Purposes

Section 102 states the purposes of the Department in order to (1) insure that education receives the appropriate emphasis at the Federal level; (2) enable the Federal Government to more effectively coordinate education activities and programs; (3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities; (4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public and private nonprofit educational research institutions, community-based organizations, parents and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs; (5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education; (6) promote the quality and relevance of education to individual needs; (7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions; (8) (A) provide leadership in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents and students to implement the findings of such research at the local level; (9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork on the recipients of Federal funds; and (10) assess the potential contribution of educational institutions, toward the improvement of education by creating mechanisms for them to bring problems to the attention of appropriate departments and agencies and make recommendations to foster their continuing vitality.

Subsection (b) states it is the intention of the Congress in creating the Department to protect the rights of State, local and tribal governments, and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

Section 103. Definitions

This section defines terms used in the Act. Such terms include Department; Secretary; Under Secretary; Assistant Secretary; Director (Director of the Office for Civil Rights): Administrator (Administrator of the Office of Education for Overseas Dependent Children); Council (Intergovernmental Advisory Council on Education); Committee (Federal Interagency Committee on Education); and function.

TITLE II—ESTABLISHMENT OF DEPARTMENT

Section 201. Department of Education

Section 201 establishes as an executive department of the Government, the Department of Education.

Section 202. Principal Officers

Section 202 provides for the establishment of the Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the executive schedule contained in section 5312 of title 5, United States Code. Also established is the position of an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the executive schedule.

The section states the Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of the Secretary and/or Under Secretary.

The section establishes 14 other principal officers of the Department: an Assistant Secretary for Special Education and Rehabilitative Services; for Indian Education; for Child Nutrition; for Elementary and Secondary Education; for Postsecondary Education; for Occupational, Adult, and Community Education; for Educational Research and Improvement; a Director of the Office for Civil Rights; two additional Assistant Secretaries; an Inspector General; and a General Counsel. Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each of these officers shall perform such duties and exercise such powers as the Secretary shall prescribe, and shall report directly to the Secretary. Each shall be compensated at the rate provided for level IV of the executive schedule.

The section provides that the Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, and Aleuts. It is the committee's belief that Indian tribes, Alaskan Natives, and Aleuts must be involved in the selection of this officer. The committee believes the Assistant Secretary for Indian Education should be of American Indian, Alaskan Native, or Aleut origin. The President should make a comprehensive effort to find a qualified individual, who is well versed in the special and unique needs of Indian students, and who has a demonstrated record of experience in improving the education of Indian people.

The section also states that one of the Assistant Secretaries shall administer the intergovernmental functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. It was felt that the assignment of Federal-State-local relations functions should be performed by a senior departmental official at executive level IV. This individual would be a high-level position to insure a State perspective on a continuing basis in all departmental affairs.

Also, one of the Assistant Secretaries shall administer the functions under section 203(13) for planning, evaluation, and policies of the Department. This will insure a high-level officer is specifically responsible for the efficient and coordinated administration of the Department and its programs and will encourage improvement in education.

The section also provides for an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

One additional officer is provided for who shall perform such duties and exercise such powers as the Secretary may prescribe. This officer shall be compensated at the rate provided for level V of the executive schedule contained in section 5316 of title 5, United States Code.

The section states that whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office. This provision is not meant to prohibit the Secretary from reassigning duties and functions or from changing such duties or functions of the officer at a later time if it is necessary to do so for the efficient operation or functioning of the Department.

Section 203. Functions of the Department

Section 203 outlines the functions of the Department. It states the function of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—(1) administration of programs pertaining to elementary and secondary education including the administration of the follow-through program; (2) administration of programs pertaining to post-secondary education; (3) administration of programs pertaining to occupational, adult, and community education; (4) administration of education grants and other programs for which the Department has responsibility under law; (5) administration of child nutrition programs; (6) administration of programs relating to special education and rehabilitative services; (7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals; (8) administration of schools for the overseas dependent children of personnel of the Department of Defense; (9) enforcement of the civil rights laws relating to education; (10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics; (11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs; (12) public information; (13) planning for and evaluation of the programs of the Department, and development of policies to promote the efficient and coordinated administration of the Department and its programs and to encourage improvement in education; (14) congressional relations, including responsibility for providing a continuing liaison between the Department and the Congress; (15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and (16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and public in the development and implementation of departmental programs.

Section 204. Office for Civil Rights

Section 204 establishes an Office for Civil Rights to be administered by a Director. In light of the high importance the committee attributes to civil rights enforcement in education, the bill provided in section 202 that the Director shall be an executive level IV, appointed by the President with the advice and consent of the Senate, who reports directly to the Secretary. The committee recommends that the Director be accorded the title Assistant Secretary for Civil Rights to reflect the visibility and stature his or her activities should have within the Department. The Secretary shall delegate to the Director all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred to the Secretary (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

The Office for Civil Rights (OCR) shall be the agency within the Department with the authority to exercise sanctions if any agency in the Department funds recipients who violate non-discrimination provisions. The committee intends that this Office have the resources and authority necessary to do its job.

This responsibility, however, does not diminish the Secretary's responsibility as the chief policy official of the Department, who must be responsible for civil rights compliance and enforcement.

Section 204 provides that the Secretary shall delegate all civil rights compliance and enforcement functions (other than administrative and support functions) to the Office for Civil Rights. This provision was included to make certain that civil rights enforcement responsibilities are not delegated by the Secretary to any official in the Department other than the OCR Director. Civil rights responsibilities are law enforcement responsibilities, and program units within the Department cannot be expected to impose legal sanctions on themselves. This is not to be construed as barring; and in fact, the committee intends to encourage every agency within the Department to consider civil rights criteria in the awarding and monitoring of grants, contracts or other Federal funds. A strong, adequately staffed Office for Civil Rights, with complete authority from the Secretary, can insure that all civil rights laws are enforced in all program units of the new Department.

This prohibition against the Secretary delegating authority to enforce civil rights laws to offices other than the OCR is not intended to limit the Secretary's ability to utilize staff who work in other offices both inside or outside the Department for other functions such as preaward audits or postgrant monitoring. Clearly, such staff might provide specific expertise necessary to help carry out or lend support to civil rights enforcement activities. However, under section 204(a), such staff must be responsible solely to the OCR Director if they are to assume any of the Secretary's responsibilities for employing sanctions for noncompliance.

Section 204(b) requires the Assistant Secretary for Civil Rights each year to prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with civil rights laws relating to education. In addition to this status report, the report shall include a statement concerning the OCR's plans and recommendations to insure improved enforcement of and continued compliance with civil rights laws related to education. The committee anticipates that this report will identify significant problems of compliance or enforcement which may require oversight by appropriate congressional committees and a description of the specific enforcement activities indicated by OCR during the previous year.

The annual report shall be submitted directly and independently by the Director to the President, the Secretary, and the Congress without clearance or approval by any executive branch official. The committee views this report as a mechanism to obtain a precise, objective statement of the status of and future plans for civil rights enforcement in education. The Congress must have an independent annual report on civil rights activities that is free from potential programmatic and practical pressures that may be brought to bear on a Secretary in order to determine if the laws of the Nation are being implemented. A direct, unedited report from the Director will provide this independent view. The Director should, however, insofar as feasible, provide a copy of the report sufficiently in advance of its submission to the Congress to provide a reasonable opportunity for comments of the Secretary to be appended to it when transmitted to Congress by the Director.

Section 205. Office of Elementary and Secondary Education

Section 205 establishes in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education. In addition, the Assistant Secretary for Elementary and Secondary Education shall perform such other duties and exercise such powers as the Secretary may prescribe.

Section 206. Office of Postsecondary Education

Section 206 establishes in the Department an Office of Postsecondary Education. The Office shall be administered by the Assistant Secretary for Postsecondary Education. The Office would assure that the needs and concerns of postsecondary institutions are represented. The Office will develop and coordinate policies and programs designed to improve postsecondary educational opportunities. Policies and procedures that recognize changing characteristics in postsecondary education should be initiated. The Assistant Secretary should advise the Secretary and Congress of these trends and also direct, coordinate, and implement departmental policies with respect to postsecondary student assistance, institutions and community colleges, and provide institutional support.

The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

Section 207. Office of Occupational, Adult, and Community Education

Section 207 establishes an Office of Occupational, Adult, and Community Education, to be administered by an Assistant Secretary for Occupational, Adult, and Community Education. This Office will be responsible for administering those programs relating to manpower training and development, technical training, and other functions concerned with vocational, occupational, adult, and continuing education. Because of the creation of this new office, the committee expects the functions and duties previously performed by the Bureau of Occupational and Adult Education to be performed by the new Office.

The Assistant Secretary shall also perform such additional duties and exercise such powers as the Secretary may prescribe.

Section 208. Office of Special Education and Rehabilitative Services

This section establishes within the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services.

This Office will contain the programs administered by the Rehabilitation Services Administration (RSA), with the exception of vocational rehabilitation services for social security disability beneficiaries and vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disability programs. In addition, the Office will administer the programs previously administered by the Bureau of Education for the Handicapped (BEH); and the Office for Handicapped Individuals (OHI). All of these entities are presently located in HEW and their functions are transferred to the Department.

It is the intention of the committee to create a comprehensive office of consolidated programs for the education of the handicapped. The committee believes this will initiate the development of an effective policy for the education of the handicapped that will aid handicapped individuals from birth through adulthood. The goal of this Office should be to increase the ability of handicapped individuals to adapt to society.

The committee intends, through the creation of this Office and Assistant Secretary, to make special education and rehabilitative services a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. Also, the creation of this Office will provide the Assistant Secretary an opportunity to efficiently coordinate the programs which were administered by RSA with those which were administered by BEH.

It is the committee's expectation that the Assistant Secretary will be a strong advocate for the furtherance of the goal of increasing the ability of handicapped individuals to adapt to society.

Athough the committee strongly believes vocational rehabilitation programs are educationally focused and should be included within the Department of Education at the Federal level, it is not the intention of section 208 to change any existing organizational structural requirements for vocational rehabilitation program at the State level; thus the enactment of this section does not specifically mandate any particular organizational structure of the programs at the State level with respect to the transfer.

Section 209. Office of Child Nutrition

This section establishes an Office of Child Nutrition, to be headed by an Assistant Secretary for Child Nutrition. The Office will administer all functions transferred to the Secretary from the Department of Agriculture relating to the National School Lunch Act and the Child Nutrition Act.

The committee intends, through the creation of this Office and Assistant Secretary, to make child nutrition a high priority in the Department of Education. The Assistant Secretary should make strong efforts to coordinate his or her activities with those of the Department. The committee believes the Assistant Secretary should be a strong advocate for better nutrition in the Federal Government, and in the nation's schools.

The committee intends that all functions transferred under section 302 be delegated to the Assistant Secretary for Child Nutrition, except for the oversight of the graduate school and administrative and support functions.

Section 210. Office of Education for Overseas Dependent Children

This section establishes an Office of Education for Overseas Dependent Children, to be administered by the Administrator for Education for Overseas Dependent Children.

The Administrator would carry out the functions transferred to the Secretary from the Departmen of Defense relating to the Office of Dependents Schools of the Department of Defense and to the operation of schools for dependent children of members of the Armed Forces (other than administrative and support functions).

The committee expects the Secretary will make available to the Office and the Administrator other resources in the Department for the improvement of the Dependents Schools, including child nutrition programs, vocational education programs, education of the handicapped services, and other programs for the improvement of academic facilities and personnel.

Section 211. Office of Indian Education

This section establishes the Office of Indian Education, to be administered by the Assistant Secretary for Indian Education.

The Secretary is required to delegate to the Assistant Secretary all functions transferred to the Department relating to education in the Bureau of Indian Affairs. Also, the Assistant Secretary will administer the functions of the existing Office of Indian Education and the Office of the Deputy Commissioner of Education for Indian Education in the U.S. Office of Education in HEW. Although this section requires the delegation of all Indian education functions transferred under this act to the Assistant Secretary except for administrative and support functions, the committee intends that these support functions include only those which provide for immediate facilities and support services relating to the Office of Indian Education itself, not those relating to the operation of Indian schools in the field (which the committee intends should be transferred to the Office).

This section specifically provides that the transfer of functions will not modify or eliminate any eligibility requirements or standards in effect before the transfer. The definition of an "Indian" differs considerably between HEW and the BIA. The committee intends that where Indian education programs and services presently serve only those tribes granted recognition by the Federal Government, they shall continue to serve those Indian people. For those programs authorized under the Indian Education Act, where a broader definition of "Indian" is used, that statutory definition shall continue to exist. The committee believes there is a strong need to tighten the latter definition. But such action can be taken only after the most careful study and with extensive consultation with Indians, Alaskan Natives, and Aleuts. The Assistant Secretary should go to great lengths to insure these two eligibility requirements and standards are continued in the Office. The committee expects the administration of the BIA transferred services and the OE transferred programs will remain distinct and separate under the Assistant Secretary until such time as Congress provides otherwise. The problem of varying definitions of an "Indian" is one that should be thoroughly examined, and remedied in the near future.

The committee expects the Department of Education will not violate the trust responsibility of the U.S. Government for Indians, Alaskan Natives, and Aleuts. The committee views this provision as being of paramount importance in both the creation of the Department and the new Office of Indian Education. The trust responsibility stems directly from the Federal Government's agreements and treaties signed with Indian tribes. The Department of Education, under this section, is ordered by Congress to strictly adhere to the trust responsibility. The Department, the Assistant Secretary, and the Office of Indian Education are legally and morally bound and obligated to meet the special and unique needs of Indians, Alaskan Natives, and Aleuts. The committee intends that the transfer of the BIA education functions and their consolidation in the new Office of Indian Education will not in any way threaten the trust responsibility and will improve Indian education.

This section also mandates coordination and consultation between the Assistant Secretary for Indian Education and the Assistant Secretary in the Department of the Interior who has responsibility for Indian Affairs. The committee believes close and strong cooperation between these two top Federal Indian officials is imperative. There will be instances where some of the educational facilities under the purview of the Department of Education will require light support services, such as the maintenance of a road on a reservation to a school.

The committee intends that there be developed a viable working relationship between the two Assistant Secretaries to rapidly eliminate any logistical concerns that might arise. The Assistant Secretary for Indian Affairs will be expected to do everything in his or her power to assist in the provision of educational services to Indian people, and to insure that the transfer of functions from the BIA be carried out with diligence and efficiency.

The Assistant Secretary for Indian Education is also mandated to increase the level of local control of Indian education by Indian people. The committee intends that this doctrine be the pervasive philosophy of the new Department and the Office of Indian Education. It is extremely important that Indian people assume more control, operation, input, and self-determination over the schools that serve their children. In this regard, the Assistant Secretary should make strong efforts to encourage more contracting under the Indian Self-Determination and Education Assistance Act. Funding arrangements for all programs and services of the Office should be made as much as possible directly between the Office and the tribes or Indian organizations. The committee does not approve of Indian education funds administered by the Office being channeled through State education agencies because the Federal Government has a direct relationship with Indian tribes.

The committee understands that some programs benefitting Indians should be administered outside the Office of Indian Education. For example, the ESEA title I funds that support Indian education are properly administered by the Assistant Secretary for Elementary and Secondary Education. However, the Assistant Secretary for Indian Education has an important role to play in helping to shape those programs outside his immediate domain so as to be more appropriate to Indian needs.

Last, this section provides for the transmittal to Congress every 3 years of a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts. The committee believes such a plan will be an important function of the Office and the Assistant Secretary. The primary purpose of the consolidation of Indian education functions under this legislation is to facilitate the development of a comprehensive Federal strategy for Indian education—long a victim of neglect. The committee expects such a plan will be developed with extensive consultation with Indian tribes and organizations. Such plan should also include an analysis of the progress of Indian education, and include recommendations for the improvement of Indian education.

Section 212. Office of Educational Research and Improvement

Section 212 establishes an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement. The section states that the Secretary shall delegate to this Assistant Secretary all functions relating to the fund for the improvement of postsecondary education, those functions transferred which relate to Federal grants for telecommunications demonstrations; and the science education functions transferred intact from the National Science Foundation.

In establishing this Office, the committee recognizes the important role of the Federal Government in assisting research and development activities which are designed to improve education, public understanding, and the capacities of educational institutions. This Office will integrate and coordinate the wide range of research, development, and demonstration programs.

The programs proposed for inclusion in the new Office are included because their overall missions fit into and would complement the new Office. Although this section does not specifically place the National Institute of Education into this Office, the committee feels this placement is appropriate. It recommends that the authorizing committees, in conjunction with reauthorizing legislation for the fund for the improvement of postsecondary education and the National Institutes of Education, consider the renewal for these programs within an organization and decisionmaking framework which will ultimately enhance the research role for the Department.

Additionally, the Assistant Secretary shall perform such other duties as the Secretary may prescribe.

Section 213. Office of Inspector General

Section 213 establishes in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary which are now vested in the Inspector General of HEW. In addition, the Inspector General will have this same authority with respect to the functions of the Secretary or of the Department, or of any officer or component thereof which are transferred to the Department.

This section insures that the Inspector General for the Department will have the same authority as that now vested in the Inspector General of the Department of Health, Education, and Welfare. To insure that the Inspector General possesses the same independence that is now vested in HEW's Inspector General, the section provides that the Inspector General shall be appointed and removed in the same manner, and have the same status as the HEW Inspector General. Thus, the Inspector General would be appointed by the President and removed solely by the President.

It is the committee's intent that the Inspector General function be a strong component in the new Department. Since this Department will spend more than $17 billion in Federal moneys, it is the committee's view that the Inspector General's office actively and thoroughly investigate any abuses or mismanagement of funds.

Also, at the present time, the House of Representatives has passed a bill providing for an Inspector General in various other Federal departments. The Senate Governmental Affairs Committee has ordered reported a similar bill. The committee recommends that if the Inspector General bill is enacted, this bill be conformed to the new statute.

Section 214. Office of General Counsel

This section establishes an Office of General Counsel, to be administered by the General Counsel.

The General Counsel shall perform necessary duties with respect to legal assistance to the Secretary concerning the programs and policies of the Department and any other additional duties the Secretary feels are appropriate for this Office.

Section 215. Intergovernmental Advisory Council on Education

Section 215 establishes within the Department an Intergovernmental Advisory Council on Education. The purpose of the Council is to conduct studies and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

The functions of the Council are to provide a forum for the development of intergovernmental policies and relations relating to education; make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs; promote better intergovernmental relations; assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions.

The Council is also required to submit a report every 2 years to Congress, the President, and the Secretary which reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions, and assess the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions.

The Council would assist the Secretary in conducting conferences and similar activities to assess the contributions of each level of government to the delivery of equitable, high-quality, and effective education.

The Council's membership shall be composed of 22 members, appointed by the President. Not more than 11 of the members of the Council may be members of the same political party. Six members would be chosen from elected State, local, and tribal officials; six members would be selected from the public, including parents, students, and public interest groups; five members would be from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and five members would be chosen from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

In making appointments to the Council, the President shall consult with representatives of state and local governmental authorities who do have a direct responsibility in education policy decisions at the State and local levels. Such groups would include the National Governor's Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors. This consultation is not limited, however, to the organizations specified. It is the committee's view that the President should also consult with other groups which are representatives of the membership selected to the Council. Such organizations would include educational organizations, citizens' public interest groups, including civil rights groups, tribal organizations and student groups. The committee feels this consultation is important in order to insure the type of broad-based representation on the Council which is necessary to carry out its stated objectives in bringing the opinions and ideas of those persons involved in the educational process to the attention of the Department.

Members appointed to the Council would be appointed for four year terms and would have a bipartisan representation. Not more than 11 members appointed to the Council would be from the same political party.

If such a member appointed to the Council is an elected official, the member may serve on the Council to the expiration of his or her appointment to the Council.

If the Council wishes, it may review rules or regulations proposed by the Department concerning Federal education programs. The purpose of the Council's review would be to determine the impact of rules or regulations on State, local and tribal governments, and public and nonpublic educational institutions. The review of the regulations would have to be conducted in accordance with the specified time allowed for public comment on the rules or regulations, as specified according to the Department's procedures. In conjunction with this provision, the Council may establish a subcommittee for the purposes of the review. The Council may receive and consider comments by affected parties on the proposed rules or regulations.

The Council may submit a report containing the results of its review to the Secretary within the time established for public comment. The Council's review would be placed on the public record. If such a report is submitted to the Secretary, the Secretary would be required to submit a written public response which addresses the Council's recommendations and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations in the rule or regulation.

The Council's review should be limited to those rules or regulations the Council feels significantly impact upon intergovernmental relations to such an extent that they warrant special attention by the Council.

The section prescribes that the per diem paid to the Council members will be the equivalent of the daily rate for a GS-18.

The Council is authorized to hold hearings and request the attendance and testimony of witnesses, as well as the cooperation and assistance of other Federal departments, agencies, and instrumentalities.

The Secretary would be required to appoint an executive director to be compensated at the rate provided for a GS-17. The Secretary should seek the approval of the Council in making the choice of the executive director. In addition, the Secretary is required to provide the Council with additional staff, facilities, and assistance as needed to carry out the Council's activities.

Section 216. Federal Interagency Committee on Education

This section establishes the Federal Interagency Committee on Education to conduct studies and make recommendations in order to assure the effective coordination of Federal programs affecting education.

The committee would be composed of at least 17 members. In order to provide more opportunity for greater coordination, the Secretary could expand this number to include other agencies involved in other education-related programs. One member would be the Secretary, who would be the chairman of the committee. Sixteen members would be representatives of the following departments and agencies: Department of Agriculture, Department of Commerce, Department of Defense, Department of Energy, Department of Justice, Department of Health and Welfare, Department of the Interior, Department of Labor, Department of State, National Aeronautics and Space Administration, National Endowment for the Arts, National Endowment for the Humanities, National Science Foundation, Veterans Administration, Commission on Civil Rights, and Environmental Protection Agency.

The committee believes the coordination of Federal education programs outside the Department with those inside will be a critically important function of the Department and the Secretary. One of the basic reasons for the creation of the Department of Education is to improve coordination of education at the Federal level.

FICE should become a viable, active tool of the Secretary in eliminating duplication of effort between the Department and other Federal agencies. The committee fully expects the Secretary will take an active role in the operation and work of FICE. That is the purpose of naming the Secretary of Education as the chairperson. FICE should be an important mechanism for the conduct of comprehensive studies on the Federal role in education, and where the effort can be streamlined.

The committee further expects the agencies designated to be represented on FICE in the legislation will also take active roles in improving coordination and performance of their education programs. The committee has specifically required these agencies to appoint senior officials involved in policymaking functions to represent them on FICE. FICE will be effective only as long as it has as members individuals who hold significant policy and decisionmaking authority.

Although the bill requires FICE to meet at least twice each year, the committee expects the Secretary will utilize FICE more often, especially in the first 3 years of the life of the new Department, when relationships among the many Federal agencies involved in education are developing and becoming formalized.

This section also mandates FICE to conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. FICE is required to report its findings to Congress within 2 years. The committee intends that FICE devote much attention to and conduct an extensive investigation of the relationship between vocational education programs in the Department with other vocational-oriented programs in the Department of Labor. The committee has been made aware of lack of coordination and duplication of effort between the vocational education and training programs of HEW and the Department of Labor. A strong, coordinated vocational education and training effort is important to the economic growth of the nation.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

Section 301. Transfers from HEW

Section 301(a) transfers all officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Office of Management and Budget Director are to be employed, held, or used primarily on connection with any function of the following agencies, offices, or parts of agencies or offices:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of HEW giving advice and making recommendations principally concerning education; and

(5) the Office of Handicapped Individuals of the Department of HEW.

Subsection 301(b)(1) transfers to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary, the Assistant Secretary for Education, or the Commissioner of Education of the Department with respect to the following:

(A) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education. (The Education Division was created by the Education Amendments of 1972 to coordinate functions of the U.S. Office of Education and the National Institute of Education (NIE). Authorization for NIE expires at the close of Fiscal Year 1979.)

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics. (The Office of the Assistant Secretary for Education (ASE) coordinates all Education Division functions. ASE is responsible for providing administrative services to the Fund for the Improvement of Postsecondary Education (FIPSE) and for the National Center for Education Statistics (NCES).)

(C) The Institute of Museum Services. (The Institute for Museum Services is authorized by the Arts, Humanities, and Cultural Affairs Act of 1976. It is established within the Department of Health, Education, and Welfare and delegated to the Office of the Assistant Secretary for Education.)

(D) Any advisory committee in HEW is giving advice and making recommendations principally concerning education.

Section 301(b)(2)(A) transfers all functions of the Department of HEW or the Secretary of HEW principally involving education including functions—

(i) Under the General Education Provisions Act, including section 404 relating to the Fund for the Improvement of Postsecondary Education (FIPSE). (The authorization for FIPSE expires at the close of fiscal year 1979.)

(ii) Under section 808 of the Elementary and Secondary Education Act of 1965. Section 808 of the Elementary and Secondary Education Act of 1965, as amended, authorizes grants for demonstration projects to improve school nutrition and health services for children from low-income families. (No appropriations have been requested over the last several years; functions can be funded under ESEA title IV, Educational Admendments of 1974.)

(iii) Under the Emergency School Aid Act. The Emergency School Aid Act, authorized by title VII of Public Law 92-318, the Education Amendments of 1972, provides grants to educational agencies for the purposes of reducing minority group isolation and for improving the quality of education for all children. Authority is assigned to the Assistant Secretary for Education. (Education Amendments of 1978 alter program characteristics.)

(iv) Under the Higher Education Act (HEA) of 1965. The Higher Education Act, as amended, includes the following separate authorizations:

Community service and continuing education programs.

College library assistance and library training and research.

Strengthening developing institutions.

Student assistance (basic education opportunity grants, grants to States for State student incentives, special programs for students from disadvantaged backgrounds, veterans' cost-of-instruction payments to institutions, among other grant and loan provisions.)

Teacher corps and teacher training, including teacher centers, training of higher education personnel, fellowships for teachers, vocational educational full-time and part-time training programs.

Financial assistance for the improvement of undergraduate instruction (facilities, television equipment, and minor remodeling).

Construction, reconstruction, and renovation of academic facilities (undergraduate and academic facilities grants and loans).

Cooperative education (grants for programs which provide alternating periods of academic study and of public or private employment).

Graduate programs (research and public service fellowships and stipends, and associated institutional assistance grants).

Establishment and expansion of community colleges (State planning grants, and grants to institutions).

Law school clinical experience programs (planning,, training, equipment, and library resources, stipends.)

General provisions (statewide planning grants, advisory council on graduate education).)

(v) Under the Emergency Insured Student Loan Act of 1969. (The Emergency Insured Student Loan Act of 1969 (Public Law 91–95) authorizes special allowances for lenders with respect to student loans under title IV-B of the HEA of 1965)

(vi) Under the act of August 30, 1890 (7 U.S.C. 321–328). (College-aid annual appropriation: This law provides authority for the Secretary to provide endowments for agriculture and mechanic arts to each State and Territory, Guam, and the Virgin Islands).

(vii) Under the Environmental Education Act. (The Environmental Education Act (Public Law 91–516), as amended, authorizes programs to encourage understanding of policies, and support activities designed to improve environmental and ecological understanding; (curriculum development, training of teachers, community programs). This act will be reauthorized in 1978.)

(viii) Under the Alcohol and Drug Abuse Education Act, except functions under section 5. (The Alcohol and Drug Abuse

Education Act (Public Law 91-527), as amended, authorizes grants or contracts to educational and community agencies to develop materials and support other educational activities designed to prevent drug abuses.

(ix) Under the International Education Act of 1966. (The International Education Act of 1966 (Public Law 89-698), as amended, provides authority for granting funds for advanced and undergraduate international studies. To date, no funds have been appropriated.)

(x) Under the National Defense Education Act of 1958. (The National Defense Education Act of 1958 (Public Law 85-864), as amended, provides authority for strengthening instruction in science, mathematics, modern foreign language, and other critical subjects. It also permits loans to nonprofit private schools, and support for guidance, counseling, and testing services. Recently, these activities have been funded under the grant-consolidation provisions of title IV of ESEA Amendments of 1974.)

(xi) Under the Education of the Handicapped Act. For a discussion of the programs administered under this act, see areas of discussion, vocational rehabilitation, page 42 of this report.

(xii) Under the National Commission on Libraries and Information Science Act. (The National Commission on Libraries and Information Science Act (Public Law 91-345) authorizes establishment of a commission which operates outside (as an independent agency) HEW. It provides advice to the President and Congress, conducts studies, surveys, and conducts meetings. It assumes responsibility for coordinating and administering the White House Conference on Library and Information Science (Public Law 93-568), to be held not later than 1978. HEW's role is to provide the Commission with "necessary administrative services . . .")

(xiii) Under the Vocational Education Act of 1963. The Vocational Education Act of 1963, as amended, is designed to improve the quality of vocational education. The majority of funds are provided to States in basic, formula-drive grants; States prepare State plans. Other discretionary and categorical grant programs under this Act include:

Special programs for disadvantaged;
Consumer and homemaking;
Innovation, research, and development projects;
Personnel development;
Bilingual vocational training; and
Adult education and special studies.

Subsection 301(b)(2)(B) transfers part B of title V of the Economic Act of 1964.

Subsection 301(b)(2)(C) transfers the functions administered by the secretary or the Office for Civil Rights for the enforcement of civil rights laws and educational orders relating to the functions transferred elsewhere in the bill.

Subsection 301(b)(2)(D) transfers the Office of Inspector General of HEW as it relates to the functions transferred by this section.

Subsection 301(b)(2)(E) transfers all laws dealing with the relationship between Gallaudet College (including the Model Secondary

School for the Deaf), Howard University, the American Printing House for the Blind, the National Technical Institute for the Deaf, and the Department of HEW.

Through the transfer of these special institutions, the committee intends that the new Department continue to allow these institutions maximum flexibility, independence, and autonomy in determining their educational program and system. The Secretary should consider coordinating the oversight of Gallaudet College, National Technical Institute for the Deaf, and American Printing House for the Blind with the Office of Special Education and Rehabilitative Services. Coordination of oversight of Howard University would be best linked with the Office of Postsecondary Education.

Subsection 301(b)(2)(F) transfers functions under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations.

Subsection 301(b)(2)(G) transfers functions under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine.

Subsection 301(b)(2)(H) transfers the functions being administered by the Secretary of HEW or by the Commissioner of the Rehabilitation Services Administration (RSA) under the Rehabilitation Act of 1973. RSA is presently located in HEW. This section also transfers the Randolph-Sheppard vending facility program, which is administered by the Commissioner but is not authorized by the Rehabilitation Act of 1973. This section does not transfer vocational rehabilitation services for social security disability beneficiaries, vocational rehabilitation services for supplemental security income beneficiaries, or the developmental disabilities programs.

Subsection 301(b)(3) transfers the functions of the National Institute of Education.

Subsection 301(b)(4) transfers the functions of the Institute of Museum Services.

In describing the functions of the Department of Education, the committee has attempted to provide a complete list of existing functions now located in HEW that would appropriately be transferred to the Department. Subsection (b)(2) pertains to functions of the Department of Health, Education, and Welfare to be transferred and describes in specific terms the legislative authorities the committee expects the new Department to administer. The subsection is not intended as a broad authority permitting transfer, by administrative determination, of additional functions up to now clearly associated with health or welfare programs of the Department.

In addition, it is the committee's intent that prior experience requirements for employees performing specified functions be maintained as Congress intended. Examples are requirements in section 160(b) of the Vocational Education Act of 1963 (20 U.S.C. 2390(b)) that certain individuals performing vocational education functions have prior experience in the fields of junior and community college education, occupational guidance and counseling, and engineering.

Section 302. Transfers of functions from the Department of Agriculture

This section transfers the child nutrition programs authorized under the National School Lunch Act and the Child Nutrition Act from the Department of Agriculture, except for commodity distribution and the women-infants-children (WIC) program.

In addition, this section directs the Secretary of Education and the Secretary of Agriculture to consult with one another on the preferences of States and localities for commodities. It also requires the Secretary of Education to consult with Federal agencies concerned with nutrition policy when taking actions that affect the nutrition standards used in these programs.

The committee intends that the transfer of these school and child nutrition programs be made to consolidate the major Federal education programs affecting the Nation's schools in order to reduce duplicative and burdensome rules, regulations, and paperwork. The committee believes that by forming a uniform administrative chain in the administration of school feeding programs (Federal-State-local governments), significant opportunities will arise to cut redtape and increase efficiency.

The committee is also aware that many programs that will be administered by the Office of Elementary and Secondary Education, among others in the Department, have nutrition responsibilities. The committee intends that, by this transfer, improved coordination will result between these programs.

The committee expects the Assistant Secretary for Child Nutrition will give strong emphasis to developing nutrition education in the Nation's schools. The committee believes the key to reducing plate waste and improving dietary awareness for children is nutrition education. The expertise in the Department for developing curricula and educational materials should be made available to the Assistant Secretary for instituting more nutrition education.

An important part of the child feeding programs is the distribution of surplus agricultural commodities to the schools and other institutions. The committee believes the commodity program is best left in USDA. USDA has the expertise in purchasing surplus commodities, and its services in this field are used by other Federal agencies successfully. The commodities must be of high quality and contribute to the nutrition of the Nation's children. There must be consultation and coordination between the Department and USDA on the needs and preferences of schools relating to the commodity program. The committee expects at the minimum, the relationships which now exist between the Food and Nutrition Service in USDA and the two commodity agencies—Agricultural Stabilization and Conservation Service and Food Safety and Quality Service—should carry over to the Department of Education.

At times, the Assistant Secretary will need the assistance of Federal agencies dealing with nutrition research. The committee intends and expects that such agencies will furnish the technical and research advice and services required for the operation of these programs. In taking action affecting the existing nutrition standards, the Assistant Secretary shall make use of these facilities and consult with those Federal agencies having nutrition responsibilities. Moreover, the committee expects that the extensive research resources of the Department of Education will also be utilized to help assess and improve the effectiveness and efficiency of the child nutrition programs.

The nutrition services provided by the child nutrition programs are critical to the proper development of the Nation's children and are important responsibilities of the schools. The committee believes that the scope of the Department should reflect these responsibilities. Further, the committee expects that the Department will actively seek to promote the full integration of these child nutrition programs into the educational process.

This section also transfers from the Department of Agriculture the graduate school.

The committee expects that the transfer will have little effect on the operation of the graduate school. The Secretary should allow the graduate school the same amount of independence and autonomy it has enjoyed under the USDA. Responsibility for policy and curriculum, and other operational authorities, should be the prerogative of the graduate school's board of trustees, not the Department.

The committee recommends complementary relationships should develop between the graduate school and the entire Department. Appropriate facilities should be made available for the continued efficient operation of the graduate school. The committee expects that the Department will share library, classroom, demonstration and audiovisual facilities with the graduate school and its faculty and students. Sharing resources should in no way disrupt or interfere with activities and program operations assigned to the Department by law.

Coordination of the programs of the Office of Occupational, Adult, and Community Education concerning occupational and community education with those of the graduate school—as an institution specializing in continuing education—would be desirable and beneficial.

The continuing prosperity and expansion of the graduate school should be the major objective of the Secretary.

Section 303. Transfers of functions from the Department of the Interior

This section transfers all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

The transfer of functions relating to the operation, construction, and maintenance of schools and dormitories would become effective whenever the President prescribes, but in no case later than 3 years after the effective date of this act. Within 1 year after the date of enactment, the Secretary would transmit to Congress a plan, developed in consultation with the affected tribes, Indian organizations, and other groups, for effecting these particular transfers.

In making the transfer of education functions from the Bureau of Indian Affairs, the committee intends that all functions not relating to the operation, construction, and maintenance of the BIA school system be transferred to the Assistant Secretary for Indian Education in the new Department on the effective date of this legislation.

By "all functions of the Secretary of the Interior . . . relating to the education of Indians, Alaskan Natives, and Aleuts," the committee wants to make clear that this also includes any financial assistance to public schools and tribally operated schools authorized under the so-called Johnson-O'Malley Act. The committee understands that approximately $33 million was spent under this program in fiscal year 1978 for educational assistance.

The committee has provided for a 3-year phase-in period for the transfer of all functions relating to the operation and maintenance of the BIA schools. The legislation also provides that the Assistant Secretary, through the Secretary, shall transmit to Congress a comprehensive plan for effecting the transfer.

The 3-year phase-in period is necessary for the orderly and efficient transfer of the BIA schools. The committee believes the phase-in period will result in little or no disruption or adverse effects to the schools.

Much emphasis and diligence should be placed on developing the comprehensive plan for transfer. The committee stresses the importance of consultation with Indian tribes and organizations on the transfer. The plan must have the input of Indian people for it to be successful. The plan should also contain recommendations for increasing the level of control and participation of Indian education by Indians themselves. The committee believes one important aspect of the plan shall be the recommendations of the Assistant Secretary on the possible creation of an all-Indian board or commission to play a significant role in the development of policy on the Federal level. The committee believes it is important to consider the need for the creation of such a high-level Indian education panel to advise the Secretary and the Office of Indian Education. The committee expects the Assistant Secretary and the Secretary will transmit to the Congress their recommendations for such a board, but only after having actively solicited the input of Indian people on the makeup, powers, and structure of such a board.

The committee further intends that support services for the schools also be transferred during the phase-in period. All functions relating to construction, policy development, and planning, evaluation, and budget should be transferred. The committee will monitor the 3-year phase-in for its efficiency, and for the close cooperation it expects to develop between the Interior Department and the Department of Education.

Section 304. Transfers of agencies and functions from the Department of Defense

This section provides for the transfer of the Department of Defense overseas dependents schools. This section also authorizes the operation of the dependents schools, which in the past have been authorized only by appropriation legislation. The Secretary is required to develop a comprehensive plan for effecting the transfer of the schools within 1 year of the date of enactment.

The committee recognizes the operation of the dependents schools will require careful analysis before a plan of transfer can be designed and executed. During this transition, the Congress expects the Secretary of Defense and the Secretary of Education to work closely to assure a smooth transfer of the schools and to avoid any disruption to the education programs conducted in the schools. In addition, section 505(a) of the bill requires that agreements between the schools and the Armed Forces in existence at the time the Department of Education is established shall remain in effect until new agreements are negotiated as part of the planned transfer of the schools.

The administrative reorganization of the schools which is currently underway should continue, and should not be disrupted during the transitional period.

The section requires that the comprehensive plan for transfer include recommendations for increasing the participation of parents, educators, students, school administrators, and military personnel in the operation and development of the schools. The committee believes it is important to consider the need for the creation of a board or commission, made up of the aforementioned individuals, to guarantee more input in the development of policy and in the operation of the schools by those involved with the educational process. Such a board would operate at the Federal level, and could have responsibilities similar to that of a State board of education. The committee expects the Secretary will transmit to Congress his or her recommendations, developed after much study and consultation with all affected parties, for the structure and authority of such a board. These recommendations should be contained within the comprehensive plan for effecting the transfer of the schools.

Section 305. Transfers of functions from the National Science Foundation

Subsection (a) transfers certain programs of the National Science Foundation (NSF) or of the Director of the National Science Foundation relating to science education.

It does not transfer programs with respect to graduate fellowships and traineeships integral to the support of scientific research and development; programs concerned with ethical, value, and science policy issues; or those for communicating science values to nonscientists.

Subsection (b) authorizes the Secretary to conduct the programs transferred by subsection (a). Only certain existing National Science Foundation science education programs are being transferred; NSF will retain the function and the right to continue its activity in appropriate science education programs.

In subsection (c) the Secretary is mandated to consult with the Director of NSF when conducting the programs transferred under this section.

Subsection (d), which is related to subsection (b), assures that NSF retains the authority to institute new programs under section 3(a)(1) of the National Science Foundation Act of 1950, even though certain of its existing programs are being transferred to the new Department.

Section 306. Transfers of programs from the Department of Justice

This section transfers the student loan and grant programs known as the Law Enforcement and Education Program and the Law Enforcement Interim Program from the Department of Justice.

Section 307. Transfers of functions from the Department of Housing and Urban Development

This section transfers the administration of college housing loans from the Department of Housing and Urban Development.

Through the transfer, the committee expects that the present high level of efficiency will be maintained in the administration of the program. The complex legal agreements and procedures used by HUD for the program should not be disrupted by the transfer. The committee intends that the transfer will not change the existing relationships between HUD and the Federal Reserve Bank, which serves as the fiscal agent for the program. Further, the committee recommends the Secretary coordinate and administer together the college housing program and the higher education facilities loan and insurance fund in the new Department to facilitate the development of a consolidated assistance program for construction of higher education facilities.

Section 308. Transfer of the Advisory Council on Education Statistics

This section transfers personnel, assets, and functions of the Advisory Council on Education Statistics.

Section 309. Effects of transfers

Any function of an officer or agency transferred will include any aspect vested in a subordinate of the officer or in a component of the agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

Section 401. Officers and employees

Subsection (a) authorizes the Secretary to appoint and fix the compensation of officers and employees necessary to carry out the functions of the Secretary and the Department, subject to the civil service laws.

Subsection (b) provides for the transfer to the Department of Education of the "supergrade" (GS–16, 17, and 18) positions related to existing programs that are being transferred to the Department. These positions exist in their current locations pursuant to 5 U.S.C. 5108(a). Because the positions already have been designated by the Civil Service Commission, the provision permits the Secretary to appoint the incumbents to similar positions in the Department without requiring new reappointment authority. Paragraph (3) assures that this exception will apply only with regard to these individuals.

Subsection (c) authorizes certain excepted appointments for use in the Office of Educational Research and Improvement generally following those now available for programs of the National Institute of Education and the National Science Foundation that are being transferred to the Department. This subsection also authorizes the appointment of up to 15 transitional employees on an excepted basis.

Subsection (d) authorizes the appointment, in conformity with the civil service laws, or 21 supergrade employes to replace 21 such positions created by law in connection with programs being transferred to the Department. In addition, it authorizes 50 new supergrade positions, in conformity with the civil service laws. The Committee feels the additional 50 supergrade positions are necessary due to the fact that projected overhead functions for the department are now extremely lean in supergrades. For example, only five supergrade positions are now available for the administration of budget functions, Major additional needs for the overhead functions of the General Counsel, Inspector General, Administration and Budget, Regional Offices and the Immediate Office of the Secretary would be needed. The Department would require additional supergrade positions for the overseas schools, which have nearly 10,000 employees, the Indian schools, which have nearly 9,000 employees and major grant making responsibilities and for the nutrition programs which would account for almost $3 billion in programs and which would be administered by 600 personnel. Currently these programs only have authority to hire five supergrades. The Committee does not expect additional supergrades to be requested for the Education Division program activities.

In terms of budget outlays, the Department will be the fourth largest domestic department in terms of outlays with authority to hire the smallest number of supergrades, even with the addition of these positions. The 21 recreated positions will retain their existing grade levels, subject to the authority of the Secretary to reevaluate such levels from time to time. In assigning the supergrade positions particular grade levels under subsection (d), other than those used to replace positions previously established by law within the Education Division, 63 percent would be deemed GS–16's, 25 percent GS–17's, and 12 percent GS–18's.

Subsection (e) provides all Indian preference hiring laws which are now in effect will continue to remain in effect after enactment.

The committee intends that the Office of Indian Education take strong steps to institute Indian preference in its employment practices. Indian preference should apply to all the Office's functions. Responsibility for insuring Indian preference is enforced should be given to the Office for Civil Rights.

Subsection (f) is concerned with the authorization for and compensation of voluntary personnel.

Section 402. Experts and consultants

This section allows the Secretary to obtain the services of experts and consultants.

Part B—General Provisions

Section 411. Authority of the Secretary

This section provides that where a function is transferred to the Secretary, there are available to the Secretary the same authorities for carrying out the function that were available to the agency or officer from which the function was transferred.

Section 412. Delegation

Section 412 authorizes the Secretary to delegate functions to other officers and employees of the Department and to authorize them to delegate such functions further (unless the act provides otherwise). The delegation of the Secretary's authority to another officer or employee does not relieve the Secretary of ultimate responsibility for the exercise of the function, nor is this section intended to be inconsistent with the requirements for redelegation of functions provided for in section 413.

Section 413 Reorganization

Section 413 contains provisions governing reorganization of offices **and functions** within the **Department.**

Subsection (a) generally authorizes the Secretary to allocate or reallocate **functions** among the officers of the Department and to establish, **consolidate,** alter, or discontinue organizational entities within **the Department** that may be necessary or appropriate. This authority **is allowed** with certain exceptions stated in this section. The reorganization **must** be consistent with section 202 (g) of this act which requires the President, in submitting nominees to executive-level positions **established** in the bill, to state the particular functions of the **Department** the individual will exercise upon taking office. This reorganization authority is subject to section 202(g) to insure that functions required to be performed by a particular officer by this act will continue to be performed by such officer even if the Secretary chooses to reorganize the Department.

Except for the procedure provided for by subsection (b), section 413 does not allow the Secretary to allocate or reallocate functions or to establish, consolidate, alter, or discontinue organizational entities within the Department if such entities or functions with respect to such entities are established by statute. The abolition of organizational entities established by this act and the alteration or the delegation of functions under this act to any specific organizational entity is also prohibited.

Subsection (b) provides an exception with respect to the following offices and the functions attached to those offices named: Office of Bilingual Education; Teacher Corps; Community College Unit; National Center for Education Statistics; Office of Career Education; National Institute of Education; Office of Environmental Educa-Resources; Institute of Museum Services; and administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

In the case of the offices listed, the Secretary could not alter, consolidate, or discontinue any organizational entity or reallocate any function vested by statute in such an entity unless the Secretary notifies the Senate Committee on Human Resources and the House Committee on Education and Labor 90 days in advance of such action. The notice must contain a full and complete statement of the action proposed to be taken pursuant to the reorganization and the supportive facts and circumstances justifying such a proposed action.

Subsection (c) provides that on the effective date of the act, the **Educational** Division of the Department of Health, Education, and **Welfare,** including the Office of Education and its Bureau of Education for the Handicapped, Bureau of Occupational and Adult Education, and Office of Indian Education, and the Office of the Assistant **Secretary** for Education of that Department shall lapse.

The purpose of this section is to give the Secretary specifically stated flexibility with respect to certain offices all previously existing within the Department of Health, Education, and Welfare and transferred to the Department of Education. Under ordinary circumstances, the Secretary would be prevented from reorganizing or reallocating functions where Congress has specifically provided that such functions be performed by particular entities created by legislation. The committee was concerned that any flexibility given to the Secretary pertaining to a reorganization of functions or offices created by statute be subject to the legislative process or subject to reorganization plan. However, a limited exception is stated in this section, which provides for certain flexibility on the part of the Secretary with respect to the offices or units named in the section. This limited authority does not extend to the abolition of functions under any circumstances and gives the Secretary some flexibility to reorganize certain functions within the Department due to the fact that a new structure has been established by the bill and that existing functions or units might not be placed appropriately in the context of the new Department, if the Secretary is not provided some flexibility.

Section 414. Reporting relationships

This section gives the Secretary flexibility, consistent with section 413, with regard to reporting relationships with subordinate officers. Subsection (a) provides (subject to the limitations of section 413, but notwithstanding the General Education Provisions Act (20 U.S.C. 1221 et seq.) or any other act) that any officer or employee of the Department whose functions are transferred by the act and who was previously required to report to either the Commissioner of Education of HEW will report to the Secretary. Subsection (b) authorizes the Secretary to delegate any such reporting requirement to any other officer or employee of the Department.

Section 415. Rules

This section authorizes the Secretary to prescribe rules and regulations in connection with the functions of the Secretary of the Department. The promulgation of rules and regulations will be subject to the requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.)

Section 416. Contracts

This section allows the Secretary to enter into and perform contracts, grants, leases, cooperative agreements, or other similar transactions to the extent and to the amount provided for in advance under appropriate acts.

Subsection (b) provides that the restricting of contracting and related authority to those funded in advance by appropriations is not intended to apply to existing programs, nor to existing contract authorities under existing law. Laws granting specific contract authority also will continue to apply.

Section 417. Technical advice

This section authorizes the Secretary to provide technical assistance with respect to any program or function of the Secretary or the Department. The Secretary must also provide, upon request, technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

Section 418. Regional and field offices

The Secretary may establish, maintain, alter, or discontinue regional or other field offices.

Section 419. Acquisition and maintenance of property

This section allows the Secretary to acquire and maintain schools and related facilities and accommodations for employees of the Department and their dependents only to the extent the facilities are of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

Section 420. Facilities at remote locations

This section authorizes the Secretary to provide various services (such as medicine, food and dining facilites) to employees and their dependents stationed at remote locations when these services are not otherwise available.

Section 421. Use of facilities

This section grants the Secretary the power to use the research equipment, services, and facilities of the United States or of any State Indian tribe, or tribal organization, or foreign government, with its consent.

The Secretary may also permit various entities to use the Department's property for Department purposes.

Section 422. Copyrights and patents

This section authorizes the Secretary to acquire copyrights, patents licenses, and releases for the Department's use.

Section 423. Gifts and bequests

This section allows the Secretary to use gifts for the purpose of aiding or facilitating the work of the Department.

Section 424. Working capital fund

This section authorizes the Secretary to establish a working capital fund for common administrative services.

Section 425. Funds transfer

When the Secretary is authorized in an appropriation act he or she may transfer funds from one appropriation to another within the Department as long as no appropriation either increases or decreases by more than 5 percent and no transfer results in increasing the appropriation above the amount authorized.

Section 426. Seal of Department

This section provides for the Secretary to approve a design for a seal for the Department.

Section 427. Annual report

Section 427 requires the Secretary, as soon as practicable after the end of each fiscal year, to prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. The report will include a statement of the goals, priorities, and plans for the Department which are consistent with the findings and purposes of this act; contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of the goals, priorities, and plans for the Department specified in the findings and purposes; the effective and efficient management of the Department; and the coordination of the functions of the Department.

The report will also analyze objective data concerning changing trends in education; areas of critical concern; and the performance of the American educational system.

In addition the report will include budget projections for the 5 fiscal years succeeding the fiscal year for which the report is made, and it will contain a separate section on the recommendations for the fiscal year for which the report is made of the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

Section 448 of the General Education Provisions Act allows the Commissioner to submit within the Commissioner's annual report recommendations for the abolition or combination of advisory committee functions. Since Section 427 is a successor to the Commissioner's annual report, the Committee expects the Secretary will submit to the Congress any such recommendations on advisory committees in the annual report.

In preparing and developing this report the Secretary shall, to the maximum extent practicable, consult with members of the public. Within 90 days after the issuance of the report, the Secretary will hold public hearings. In the course of the Secretary's consultation, the Secretary may reimburse any person for expenses reasonably incurred if such person has made or is likely to make a material contribution to the work of the Department or could not otherwise participate fully and effectively in the consultation.

Section 428. Relationship to General Education Provisions Act

Section 428 provides the General Education Provisions Act shall apply only to functions transferred by this act to which the GEPA applies immediately prior to the date of enactment (except where inconsistent with the provisions of this Act.)

Section 429. Authorization of appropriations

This section authorizes to be appropriated whatever sums may be necessary to carry out the provisions of this act and to enable the Secretary to administer and manage the Department.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

Section 501. Transfer and allocations of appropriations and personnel

501(a) provides that all personnel, assets, liabilities, contracts, property, records, and unexpended sums connected with the functions transferred by this act are also transferred. Unexpended funds would be used only for the purposes for which they were originally authorized and appropriated.

Section (b) provides positions expressly specified by statute or reorganization plan to carry out functions transferred by this act, the personnel occupying those positions on the effective date of this act, and the personnel authorized to receive compensation in those positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the executive schedule on the effective date of this act, will be subject to the provisions of section 503 of this act.

Section 502. Effect on personnel

Subsection (a) provides the permanent positions transferred would not be reduced in grade nor would they be separated for at least 1 year (unless stated otherwise in the act).

Subsection (b) further provides that a person who held a position compensated in accordance with the executive schedule and who is appointed in the Department to a position having duties comparable to those he or she performed immediately preceding the appointment will be compensated at least at the same rate as he or she was at the previous employment.

Section 503. Agency terminations

If the functions of an agency, commission, other body, or component thereof have been terminated or transferred, the agency, commission, other body, or component would terminate unless otherwise provided in this act. If this termination occurs, each position and office within the terminated unit would also terminate.

Section 504. Incidental transfers

The Director of the Office of Management and Budget (OMB) is authorized and directed to make any incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended funds, as may be necessary to accomplish the purposes of this act. The Director of OMB will provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this act and for whatever further measures and dispositions as may be necessary to effectuate the purposes of this act.

This section is not intended to authorize the transfer of any major program authorities not specified in the bill. The provision is designed to cover functions that are necessary to carry out the provisions of the law for the creation of the new Department. The specifications of transfers of personnel, assets, et cetera, in sections 301(a), 304(a)(1), and 308 are not intended to limit the authority contained in this section.

Section 505. Savings provisions

Subsection (a) provides any orders, rules, regulations, determinations, permits, grants, contracts, certificates, licenses, and privileges which are in effect at the time of enactment will continue in effect until their proper termination or modification.

Subsection (b) provides any proceeding, or application for a license, permit, certificate, or financial assistance affecting a function which is transferred will continue after the transfer.

This section also provides the transfer of any functions by this act would not affect any pending suit. If the suit was against an officer in his official capacity, that officer would be replaced as a party to the suit by the appropriate official of the new Department.

Section 506. Separability

This section provides if any provision of this act, or its application to any person or circumstance is held invalid, neither the remainder of this act nor the application of the provision to other persons or circumstances would be affected.

Section 507. Reference

Any Federal law which refers to a governmental unit the functions of which are transferred to this Department would be deemed to refer to the component of this Department in which this act vests those functions.

Section 508. Technical amendments

This section makes technical amendments in various acts. For example, the Secretary of Education is added to the list of successors to the Presidency, the Department of Education is added to the list of executive departments, and the executive level officers provided for in this act are added to title 5 of the United States Code.

Section 509. Amendment to the Comprehensive Employment and Training Act

This section amends section 306 of the Comprehensive Employment and Training Act of 1973 to read "Consultation with the Secretaries of Education and of Health and Welfare." It provides for the Secretary of Labor to consult with the Secretary of Health and Welfare concerning services of a health and welfare character. The Secretary of Labor would consult with the Secretary of Education concerning services of an educational nature. The Secretary of Education would solicit advice from State educational agencies with respect to education services.

The Secretary of Labor would obtain the approval of the Secretary of Education when arranging for the provision of basic education and vocational training directly.

Section 510.—Contracts with Indian tribal organizations

This section makes the Indian Self-Determination and Educational Assistance Act applicable to the Office of Indian Education in the new Department. It directs the Secretary to enter into contracts, upon request, with any Indian tribe to carry out any or all functions, authorities, and responsibilities transferred to the Secretary from the Department of the Interior, unless the Secretary finds the services to be rendered by the tribe to the beneficiaries will not be satisfactory, or adequate protection of trust resources will not be assured, or the proposed project or function cannot be properly completed or maintained. If the Secretary [illegible] such a finding, he must consider whether the tribe would be [illegible] performing the contract with respect to equipment, bookkeeping and accounting procedures, substantive knowledge of the program, community support, adequately trained personnel, or other necessary components of contract performance. The Secretary must state those objections to the tribe within 60 days, provide assistance to overcome the objections, and provide the tribe with a hearing and the right to appeal.

The Secretary is authorized to require any tribe requesting to enter into a contract to obtain adequate liability insurance. The Secretary may make grants to any Indian tribe for: the development, construction, operation, provision or maintenance of adequate education facilities or services; planning, training, evaluation or other activities designed to improve the capacity of a tribal organization to enter into a contract.

The committee intends to strengthen self-determination in the Department of Education. The committee expects the Assistant Secretary for Indian Education and the Secretary will make strong efforts to encourage more tribes to contract for their educational services. The contracting process should be conducted with as little redtape and burdensome restrictions as possible. The Department and the Office of Indian Education should provide more technical assistance to the tribes. There should be strong efforts to minimize contracting problems, including making arrangements to cover startup costs and to determine tribal funding needs in advance.

The committee does not intend, at this time, that the contracting provisions be applied to programs authorized under the Indian Education Act. It would appear those programs are most effective when the grants are awarded on a competitive basis. The Secretary should seriously study, however, the future application of the contracting authority in the comprehensive plan for Indian education required under section 211.

Section 511.—Amendment to the Elementary and Secondary Education Act of 1965

A new sentence is added to the end of section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965. The sentence will read:

> The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.

Section 512.—Redesignation

This section redesignates the Department of Health, Education, and Welfare as the Department of Health and Welfare.

Any reference to Health, Education and Welfare would refer to Health and Welfare.

With respect to this section the committee, and Senator Humphrey in particular, suggests the administration and members of Congress work together in developing a new name for the Department of Health and Welfare. Senator Humphrey has suggested such considerations as the "Department of Health and Human Development" or the "Department of Health and Human Resources." The committee suggests that renaming the Department of Health and Welfare be given priority consideration.

Section 513. Transition

The Secretary may utilize the services of personnel of the executive branch to facilitate the orderly transfer of functions under this act as long as the Secretary receives the consent of the appropriate department or agency head concerned.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

Section 601. Effective Date

This act takes effect 180 days after the Secretary first takes office, or earlier if the President so prescribes. However, officers may be nominated and appointed and the Secretary may promulgate regulations any time after the date of enactment.

Section 602. Interim Appointments

If an officer has not entered office by the time this act is effective, the President may designate an acting officer for 120 days or until the office is filled, whichever comes first.

EVALUATION OF REGULATORY IMPACT

Paragraph 5(a) of rule XXXIX requires each report accompanying a bill to evaluate the regulatory impact which would be incurred in carrying out the bill.

S. 991 creates a Cabinet-level Department of Education in the Federal Government. The bill's main purpose is to reorganize the Federal Government to improve governmental efficiency, management, and coordination.

The legislation provides for no new regulatory authority. The committee believes the creation of the Department of Education will not have any new regulatory impact on the provision of Federal educational services and programs. All existing rules and regulations in the programs transferred to the new Department will also be transferred.

One of the committee's goals in the creation of the Department of Education is to achieve a significant measure of consolidation of Federal education programs in order to reduce duplicative and time-consuming paperwork, rules, and regulations.

ESTIMATED COST OF THE LEGISLATION

Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of S. 991.

Based on this review, the Director of the CBO estimates the cost of creating the Department of Education will be: $3.3 million in fiscal year 1979; $5.7 million in fiscal year 1980; $8.6 million in fiscal year 1981; $10.441 million in fiscal year 1982; and $11.1 million in fiscal year 1983.

Once the Department is established, an analysis of programs designed to meet Federal objectives in the educational process may serve to point out duplication of effort. Should such duplication be highlighted, every effort should be made to eliminate and consolidate in the areas where duplication exists with an eye toward making the Federal educational effort more effective and coordinated through improved accountability, coordination, and manageability as has been stressed in the creation of the Department, and as a method of containing costs where the need for new programs may arise to meet changing national needs.

Staff additions outside of the executive positions newly authorized in the bill to carry out the administrative functions of the new Department are not anticipated. Cost containment for the new Department is as important an objective as the intent to provide education with the priority needed to insure its appropriate attention, and in fact, is desirable in terms of management, efficiency, and accountability in the Federal involvement in the educational process.

TEXT OF S. 991 AS REPORTED

A BILL To establish a Department of Education, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Education Organization Act of 1978".

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TITLE I—GENERAL PROVISIONS

STATEMENT OF FINDINGS

SEC. 101. The Congress finds and declares that—

(1) education is fundamental to the growth and achievement of the Nation;

(2) there is a continual need to provide equal access by all Americans, especially the disadvantaged and handicapped, to high quality educational opportunities;

(3) the primary responsibility for education has in the past, and must continue in the future, to reside with State, local, and tribal governments, public and nonpublic educational institutions, communities, and families;

(4) the dispersion of education programs across a large number of Federal agencies has led to fragmented, duplicative, and often inconsistent Federal policies relating to education;

(5) there is ineffective management of existing Federal resources for State, local, and tribal governments and public and nonpublic educational institutions;

(6) there is substantial evidence that the quality of education and the development of basic skills are not keeping pace with current demands;

(7) the current structure of the executive branch of the Government fails to recognize the importance of education and does not allow for sufficient Presidential and public consideration of issues relating to education;

(8) the importance of education is increasing as new technologies and alternative approaches to traditional education are considered, as society becomes more complex, and as equal opportunities in education and employment are promoted; and

(9) therefore, it is in the public interest and general welfare of the United States to establish a Department of Education.

PURPOSES

SEC. 102. (a) It is the purpose of this Act to establish a Department of Education in order to—

(1) insure that education receives the appropriate emphasis at the Federal level;

(2) enable the Federal Government to coordinate education activities and programs more effectively through interagency cooperation, technical assistance, and evaluation of program effectiveness;

(3) continue and strengthen the Federal commitment to insuring access by every individual to equal educational opportunities;

(4) supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, parents, and students to improve the quality of education, while acknowledging the right of State, local, and tribal governments and public and nonpublic educational institutions to formulate policies, choose curricula, decide administrative questions, and choose program content with respect to their educational programs;

(5) encourage the increased involvement of parents, students, and the community in the decisionmaking process relating to education, including the development and improvement of education programs and services;

(6) promote the quality and relevance of education to individual needs, including the assurance of an adequate level of skill development and lifelong learning opportunities;

(7) broaden approaches to meeting educational and developmental needs by strengthening relationships among schools, parents, students, communities, the workplace, and other related institutions;

(8)(A) provide assistance in the support of research relating to human development and learning systems that complement education, with a greater emphasis on the practical application of such research; (B) collect and analyze information on the progress and condition of education in the United States; and (C) work with State, local, and tribal officials, public and nonpublic educational institutions, community organizations, parents, and students to implement the findings of such research at the local level;

(9) supplement and complement the efforts of State, local, tribal, and nonpublic agencies by providing support to the articulated educational needs of such agencies, especially with respect to the simplification of the process, procedures, and administrative structures for the dispersal of Federal funds, as well as the reduction of unnecessary and duplicative burdens and constraints, including unnecessary paperwork, on the recipients of Federal funds; and

(10) assess the potential contribution of educational institutions, including institutions of higher education, to the improvement of education by creating mechanisms by which such institutions may bring problems to the attention of appropriate departments and agencies and may make recommendations to foster the continuing vitality of such institutions.

(b) It is the intention of the Congress in the creation of the Department of Education to protect the rights of State, local, and tribal governments and public and nonpublic educational institutions in the areas of educational policies, administration of programs, and selection of curricula and program content, and to strengthen and improve the direction of such governments and institutions over their educational programs and policies.

DEFINITIONS

Sec. 103. As used in this Act—

(1) the term "Department" means the Department of Education or any component thereof;

(2) the term "Secretary" means the Secretary of Education;

(3) the term "Under Secretary" means the Under Secretary of Education;

(4) the term "Assistant Secretary" means an Assistant Secretary of Education;

(5) the term "Director" means the Director of the Office for Civil Rights;

(6) the term "Administrator" means the Administrator of the Office of Education for Overseas Dependent Children;

(7) the term "Council" means the Intergovernmental Advisory Council on Education;

(8) the term "Committee" means the Federal Interagency Committee on Education; and

(9) the term "function" includes any duty, obligation, power, authority, responsibility, right, privilege, and activity.

TITLE II—ESTABLISHMENT OF DEPARTMENT

DEPARTMENT OF EDUCATION

Sec. 201. There is established as an executive department of the Government, the Department of Education.

PRINCIPAL OFFICERS

Sec. 202. (a) The Department shall be administered by a Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall be compensated at the rate provided for level I of the Executive Schedule contained in section 5312 of title 5, United States Code.

(b)(1) There shall be in the Department an Under Secretary of Education who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall perform such duties and exercise such powers as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of the Secretary, the Under Secretary shall act as Secretary. The Under Secretary shall be compensated at the rate provided for level III of the Executive Schedule contained in section 5314, United States Code.

(2) The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and Under Secretary or in the event of vacancies in both of those offices.

(c)(1) There shall be in the Department—

(A) an Assistant Secretary for Special Education and Rehabilitative Services;

(B) an Assistant Secretary for Indian Education;

(C) an Assistant Secretary for Child Nutrition;

(D) an Assistant Secretary for Elementary and Secondary Education;

(E) an Assistant Secretary for Postsecondary Education;

(F) an Assistant Secretary for Occupational, Adult, and Community Education;

(G) an Assistant Secretary for Educational Research and Improvement;

(H) a Director of the Office for Civil Rights;

(I) two additional Assistant Secretaries;

(J) an Inspector General; and

(K) a General Counsel.

(2) Each of the Assistant Secretaries, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall perform such duties and exercise such powers as the Secretary shall prescribe. Each Assistant Secretary, the Director of the Office for Civil Rights, the Inspector General, and the General Counsel shall report directly to the Secretary and shall be compensated at the rate provided for level IV of the Executive Schedule contained in section 5315 of title 5, United States Code.

(3) The Assistant Secretary for Indian Education shall be appointed by the President, by and with the advice and consent of the Senate, from among lists of candidates submitted by tribes or other organizations of Indians, Alaskan Natives, or Aleuts.

(d) One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section 203(11) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe. One of the Assistant Secretaries appointed pursuant to subsection (c)(1)(I) shall administer the functions of the Department under section

203(13) and shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(e) There shall be in the Department an Administrator of Education for Overseas Dependent Children. The Administrator shall perform such duties and exercise such powers as the Secretary may prescribe. The Administrator shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(f) There shall be in the Department one additional officer who shall perform such duties and exercise such powers as the Secretary may prescribe. Such officer shall be compensated at the rate provided for level V of the Executive Schedule contained in section 5316 of title 5, United States Code.

(g) Whenever the President submits the name of an individual to the Senate for confirmation as an officer of the Department under subsections (c), (d), and (f), the President shall state the particular functions of the Department such individual will exercise upon taking office.

FUNCTIONS OF THE DEPARTMENT

SEC. 203. The functions of the Department shall be to promote the cause and advancement of education throughout the United States and shall include—

(1) administration of programs pertaining to elementary and secondary education including programs under part B of title V of the Economic Opportunity Act of 1964;

(2) administration of programs pertaining to post-secondary education;

(3) administration of programs pertaining to occupational, adult, and community education;

(4) administration of education grants and other programs for which the Department has responsibility under law;

(5) administration of child nutrition programs;

(6) administration of programs relating to special education and rehabilitation services;

(7) administration of programs for education of Indians, Alaskan Natives, and Aleuts, and fulfillment of the obligations of the Government relating to education of such individuals;

(8) administration of schools for the overseas dependent children of personnel of the Department of Defense;

(9) enforcement of the civil rights laws relating to education;

(10) research, dissemination of improved educational practices, and the coordinated collection and dissemination of statistics;

(11) intergovernmental policies and relations, including responsibility for assuring that Federal education policies and procedures supplement and complement the efforts of State, local, and tribal governments, the private sector, public and nonpublic educational institutions, public or private nonprofit educational research institutions, community-based organizations, and parents to improve their educational programs;

(12) public information;

(13) planning and evaluation of the programs of the Department, and development of policies to promote the efficient and

coordinated administration of the Department and the programs of the Department and to encourage improvement in education;

(14) congressional relations, including responsibility for providing a continuing liasion between the Department and the Congress;

(15) administration and management of the Department, including responsibility for legal assistance, accounting, personnel, payroll, budgeting, and other administrative functions; and

(16) monitoring parental and public participation in programs where such participation is required by law, and encouraging the involvement of parents, students, and the public in the development and implementation of departmental programs.

OFFICE FOR CIVIL RIGHTS

SEC. 204. (a) There is established in the Department an Office for Civil Rights, to be administered by the Director of the Office for Civil Rights appointed under section 202(c). The Secretary shall delegate to the Director of the Office for Civil Rights all functions of the Office for Civil Rights of the Department of Health, Education, and Welfare relating to education transferred under section 301(b)(2)(C) (other than administrative and support functions). The Director shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Each year, the Director shall prepare and transmit a report to the President, the Secretary, and the Congress concerning the status of compliance with the civil rights laws relating to education. The report shall include a statement concerning the plans and recommendations of the Director to insure improved enforcement of and continued compliance with the civil rights laws relating to education.

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

SEC. 205. There is established in the Department an Office of Elementary and Secondary Education, to be administered by the Assistant Secretary for Elementary and Secondary Education appointed under section 202(c). The Assistant Secretary for Elementary and Secondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF POSTSECONDARY EDUCATION

SEC. 206. There is established in the Department an Office of Postsecondary Education, to be administered by the Assistant Secretary for Postsecondary Education appointed under section 202(c). The Assistant Secretary for Postsecondary Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF OCCUPATIONAL, ADULT, AND COMMUNITY EDUCATION

SEC. 207. There is established in the Department an Office of Occupational, Adult, and Community Education, to be administered by the Assistant Secretary for Occupational, Adult, and Community

Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Occupational, Adult, and Community Education the functions of the Bureau of Occupational and Adult Education transferred under section 301(b)(1)(A) (other than administrative and support functions). The Assistant Secretary for Occupational, Adult, and Community Education shall perform such duties and exercise such powers as the Secretary may prescribe.

OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

Sec. 208. (a) There shall be in the Department an Office of Special Education and Rehabilitative Services, to be administered by the Assistant Secretary of Education for Special Education and Rehabilitative Services appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Special Education and Rehabilitative Services all functions transferred to the Secretary under sections 301(b)(2)(A)(xi) (including the functions of the Bureau for the education and training of the handicapped) and 301(b)(2)(H), relating to the Education of the Handicapped Act, the Rehabilitation Act of 1973, and the Randolph-Sheppard Act (other than administrative and support functions). The Assistant Secretary for Special Education and Rehabilitative Services shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) Nothing in this section shall be construed to require any particular organizational structure of vocational rehabilitation at the State level.

OFFICE OF CHILD NUTRITION

Sec. 209. There is established in the Department an Office of Child Nutrition, to be administered by the Assistant Secretary for Child Nutrition appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Child Nutrition all functions transferred from the Department of Agriculture under section 302(a)(2), relating to the National School Lunch Act and the Child Nutrition Act of 1966 (other than administrative and support functions). The Assistant Secretary for Child Nutrition shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF EDUCATION FOR OVERSEAS DEPENDENT CHILDREN

Sec. 210. There is established in the Department on Office of Education for Overseas Dependent Children, to be administered by the Administrator appointed under section 202(e). The Secretary shall delegate to the Administrator all functions transferred from the Department of Defense under section 304, relating to the Office of Dependents Schools of the Department of Defense and to the operation of overseas schools for dependent children of members of the Armed Forces (other than administrative and support functions). The Administrator shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INDIAN EDUCATION

SEC. 211. (a)(1) There is established in the Department an Office of Indian Education, to be administered by the Assistant Secretary for Indian Education appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Indian Education—

(A) all functions transferred from the Secretary of the Interior or the Department of the Interior under section 303 (other than administrative and support functions); and

(B) the functions relating to Indian education (other than administrative and support functions), transferred from the Education Division of the Department of Health, Education, and Welfare under sections 301(a)(1) and 301(b)(1), which were administered by the Deputy Commissioner for Indian Education of the Department of Health, Education, and Welfare on the day before the effective date of this Act.

(2) The Assistant Secretary for Indian Education shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

(b) The transfer of functions from the Secretary of the Interior or the Department of the Interior shall not—

(1) modify or eliminate any eligibility requirements for participation in programs administered by the Secretary of the Interior or the Department of the Interior which were in existence on the day before the date of enactment of this Act; or

(2) alter in any way the trust responsibility of the United States for Indians, Alaskan Natives, or Aleuts.

(c) In carrying out his responsibilities under this Act, the Assistant Secretary for Indian Education shall—

(1) consult regularly with the Assistant Secretary for Indian Affairs of the Department of the Interior in order to assure the efficient operation of programs for Indian education and to coordinate the provision of support services by the Department of the Interior; and

(2) take such as may be appropriate to increase the level of local control of Indian education by Indians, Alaskan Natives, and Aleuts.

(d) Not later than three years after the effective date of this Act, and every three years thereafter, the Secretary, after consultation with the Assistant Secretary for Indian Education and with affected Indian tribes, Indian organizations, and other groups, shall transmit to the Congress a comprehensive plan for the education of Indians, Alaskan Natives, and Aleuts.

OFFICE OF EDUCATIONAL RESEARCH AND IMPROVEMENT

SEC. 212. (a) There is established in the Department an Office of Educational Research and Improvement, to be administered by the Assistant Secretary for Research and Improvement appointed under section 202(c). The Secretary shall delegate to the Assistant Secretary for Educational Research and Improvement—

(1) all functions transferred from the Secretary of Health, Education, and Welfare—

(A) under section 301(b)(2)(A)(i), relating to the Fund for the Improvement of Postsecondary Education;

(B) under section 301(b)(2)(F), relating to Federal grants for telecommunications demonstrations; and

(2) all programs transferred from the National Science Foundation or the Director of the National Science Foundation under section 305.

(b) The Assistant Secretary for Research and Improvement shall perform such additional duties and exercise such additional powers as the Secretary may prescribe.

OFFICE OF INSPECTOR GENERAL

SEC. 213. (a) There is established in the Department an Office of Inspector General, to be administered by the Inspector General appointed under section 202(c).

(b) The Inspector General shall carry out the functions of the Office of Inspector General of the Department of Health, Education, and Welfare relating to education transferred to the Secretary under section 301(b)(2)(D), and shall perform such functions with respect to all functions of the Secretary or the Department, or of any officer or component thereof. The Inspector General of the Department shall be appointed and removed in the same manner, and shall have the same status, as the Inspector General of the Department of Health, Education, and Welfare.

(c) The Inspector General shall be subject to the provisions of subchapter III of chapter 73, title 5, United States Code, notwithstanding any exemption from such provision which might otherwise apply.

OFFICE OF GENERAL COUNSEL

SEC. 214. There is established in the Department an Office of General Counsel, to be administered by the General Counsel appointed under section 202(c). The General Counsel shall perform such duties and exercise such powers as the Secretary may prescribe, and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

INTERGOVERNMENTAL ADVISORY COUNCIL ON EDUCATION

SEC. 215. (a) There is established within the Department an advisory committee to be known as the Intergovernmental Advisory Council on Education. The Council shall provide assistance and make recommendations to the Secretary and the President concerning intergovernmental policies and relations relating to education.

(b)(1) In carrying out its functions under subsection (a), the Council shall—

(A) provide a forum for the development of intergovernmental policies and relations relating to education;

(B) make recommendations for the improvement of the administration and operation of Federal education programs and education-related programs;

(C) promote better intergovernmental relations;

(D) assess Federal policies and make recommendations to insure effective direction over educational policymaking and program implementation by State, local, and tribal governments and public and nonpublic educational institutions;

(E) submit a report biannually to the Congress, to the President, and to the Secretary which—

(i) reviews the impact of Federal education policies upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(ii) assesses the achievement of Federal objectives in education as well as any adverse consequences of Federal actions upon State, local, and tribal governments, and public and nonpublic educational institutions; and

(F) assist the Secretary in conducting conferences and similar activities to assess the contribution of each level of government to the delivery of equitable, high-quality, and effective education.

(2) In carrying out its function under subsection (a), the Council may review rules or regulations proposed by the Department concerning Federal education programs prior to the promulgation of such rules or regulations in order to determine the impact of such rules or regulations on State, local, and tribal governments and public and nonpublic educational institutions.

(c)(1) The Council shall be composed of twenty-two members, to be appointed by the President—

(A) six members from among representatives of elected State, local, and tribal officials;

(B) six members from among representatives of the public, including parents, students, and public interest groups;

(C) five members from among representatives of public and nonpublic preschool, elementary, and secondary educational institutions, including school board members, administrators, and teachers; and

(D) five members from among representatives of public and nonpublic postsecondary educational institutions, including board members, administrators, and teachers.

(2) In making appointments under this subsection, the President shall consult with various organizations representative of the groups specified in subparagraphs (A) through (D) of paragraph (1), including the National Governors' Association, the National Conference of State Legislatures, the National Association of Counties, the National League of Cities, and the United States Conference of Mayors.

(3) Not more than eleven of the members of the Council may be members of the same political party.

(d)(1) Members of the Council shall be appointed for a term of four years, except that the term of office of the members first appointed shall expire, as designated by the President at the time of appointment, five at the end of one year, five at the end of two years, six at the end of three years, and six at the end of four years.

(2) Any member of the Council who is appointed pursuant to subsection (c)(1) may serve on the Council beyond the period that such member holds the elective office which served as the basis of the appointment of such member.

(e) The President shall designate one of the members of the Council as the Chair of the Council.

(f) Twelve members of the Council shall constitute a quorum, but a lesser number may hold hearings. Any vacancy in the Council shall not affect its power to function.

(g)(1) In carrying out the provisions of subsection (b)(2), the Council shall establish a subcommittee to review proposed rules or regulations concerning Federal education programs in order to determine the impact of such rules or regulations on State, local and tribal governments and public and nonpublic educational institutions. In reviewing such rules or regulations, the Council may provide parties to be affected by such rules or regulations an opportunity to comment on such rules or regulations, and shall consider any comments received in reviewing such rules or regulations.

(2) The Council may submit a report containing the results of its review of any such rules or regulations to the Secretary. Any such report shall be submitted by the Council within the time established for public comment on such rules or regulations. The Secretary shall place any report received from the Council on the record of the proceedings concerning such rules or regulations, and shall make such report public. Within thirty days of the receipt of such report, the Secretary shall submit a written public response on the record which addresses the recommendations made by the Council concerning any rule or regulation reviewed, and contains a statement of the reasons why the Secretary will or will not incorporate the recommendations made by the Council in such rule or regulation.

(h) Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule contained in section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) In order to carry out the provisions of this section, the Council is authorized to—

(1) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Council or such subcommittee may deem advisable; and

(2) request the cooperation and assistance of Federal departments, agencies, and instrumentalities in carrying out the provisions of this section, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(j) The Secretary shall appoint an executive director for the Council. Such executive director shall be compensated at the rate provided for GS–17 of the General Schedule contained in section 5332, title 5, United States Code. The Secretary shall provide the Council with such other staff, support, facilities, and assistance as may be necessary to enable the Council to carry out its duties under this section.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 216. (a) There is established a Federal Interagency Committee on Education. The Committee shall assist the Secretary in providing a mechanism to assure that the procedures and actions of the Department and other Federal departments and agencies are fully coordinated.

(b) The Committee shall cooperate with the Secretary in the conduct of studies and shall make recommendations in order to assure the effective coordination of Federal programs affecting education, including—

(1) the consistent administration of policies and practices by Federal agencies in the conduct of similar programs;

(2) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(3) adequate procedures to assure the availability of information requested by the Secretary;

(4) the improvement, development, and oversight of a comprehensive Federal policy for education; and

(5) the improvement of the administration and coordination of federally funded vocational education and training programs for the purpose of aiding students and adults in preparing for and achieving success in their work life.

(c) (1) The Committee shall be composed of at least seventeen members. One member shall be the Secretary, who shall be the Chair of the Committee.

(2) (A) Sixteen members of the Committee shall be representatives of the departments and agencies listed in subparagraph (B), to be appointed by the head of each department and agency from among the senior officials of that department or agency who are responsible for the formulation of policy in that department or agency.

(B) The departments and agencies to be represented on the Committee pursuant to subparagraph (A) are—

(i) Department of Agriculture;
(ii) Department of Commerce;
(iii) Department of Defense;
(iv) Department of Energy;
(v) Department of Justice;
(vi) Department of Health and Welfare;
(vii) Department of the Interior;
(viii) Department of Labor;
(ix) Department of State;
(x) National Aeronautics and Space Administration;
(xi) National Endowment for the Arts;
(xii) National Endowment for the Humanities;
(xiii) National Science Foundation;
(xiv) Veterans' Administration;
(xv) Commission on Civil Rights; and
(xvi) Environmental Protection Agency.

(3) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, and the Executive Director of the Domestic Policy Staff may each designate a member of the staff of such agencies to attend meetings of the Committee as observers.

(4) The Secretary may invite the heads of Federal agencies other than the agencies represented on the Committee under the provisions of paragraph (2) to designate representatives to serve as members of the Committee or to participate in meetings of the Committee concerning matters of substantial interest to such agencies.

(d) In carrying out its functions under subsection (b) (5), the Committee shall conduct a study concerning the need for improved coordination between all federally funded vocational education and training programs. The Committee shall report the findings of such study to the Secretary and the Congress within two years of the date of enactment of this Act.

(e) The Committee shall meet at least twice each year.

(f) The Secretary and the head of each Federal agency represented on the Committee under subsection (c)(2) shall furnish such assistance, support, facilities, and staff to the Committee as may be necessary to enable the Committee to carry out its functions under this section.

TITLE III—TRANSFERS OF AGENCIES AND FUNCTIONS

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SEC. 301. (a) All officers, employees, assets, liabilities, contracts, grants, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the following agencies, offices, or parts of agencies or offices, are hereby transferred to the Department and vested in the Secretary:

(1) the Education Division of the Department of Health, Education, and Welfare, including the National Institute of Education;

(2) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(3) the Institute of Museum Services of the Department of Health, Education, and Welfare;

(4) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education; and

(5) the Office for Handicapped Individuals of the Department of Health, Education, and Welfare.

(b)(1) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare, the Assistant Secretary for Education, or the Commissioner of Education of the Department of Health, Education, and Welfare, as the case may be, with respect to—

(A) the Education Division of the Department of Health, Education, and Welfare;

(B) the Office of the Assistant Secretary for Education, including the National Center for Education Statistics;

(C) the Institute of Museum Services of the Department of Health, Education, and Welfare; and

(D) any advisory committee in the Department of Health, Education, and Welfare giving advice and making recommendations principally concerning education.

(2) There are transferred to the Secretary all functions of the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare—

(A) principally involving education including functions—

(i) under the General Education Provisions Act, including the provisions of section 404 of such Act relating to the Fund for the Improvement of Postsecondary Education;

(ii) under section 808 of the Elementary and Secondary Education Act of 1965;

(iii) under the Emergency School Aid Act;

(iv) under the Higher Education Act of 1965;

(v) under the Emergency Insured Student Loan Act of 1969;

(vi) under the Act of August 30, 1890 (26 Stat. 417);

(vii) under the Environmental Education Act;

(viii) under the Alcohol and Drug Abuse Education Act, except functions under section 5 of such Act;

(ix) under the International Education Act of 1966;

(x) under the National Defense Education Act of 1958;

(xi) under the Education of the Handicapped Act;

(xii) under the National Commission on Libraries and Information Science Act; and

(xiii) under the Vocational Education Act of 1963.

(B) with respect to the administration of part B of title V of the Economic Opportunity Act of 1964;

(C) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Office for Civil Rights for the enforcement of the provisions of the civil rights laws and educational orders relating to the functions transferred by other subsections of this section and the other sections of this title;

(D) with respect to the Office of Inspector General of the Department of Health, Education, and Welfare relating to the functions transferred by this section;

(E) with respect to all laws dealing with the relationship between (i) Gallaudet College (including the Model Secondary School for the Deaf), Howard University, the American Printing House for the Blind, and the National Technical Institute for the Deaf, and (ii) the Department of Health, Education, and Welfare;

(F) under subpart A of part IV of title III of the Communications Act of 1934, relating to Federal grants for telecommunications demonstrations;

(G) under subparts II and III of part B of title VIII of the Public Health Service Act, relating to the establishment of student loan funds and scholarship grant programs for schools of nursing and under subparts I and II of part C of title VII of such Act, relating to the establishment of student loan insurance and student loan funds for schools of medicine, osteopathy, dentistry, pharmacy, podiatry, optometry, or veterinary medicine; and

(H)(i) with respect to and being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Rehabilitation Act of 1973, except that the provisions of this subdivision shall not be construed to transfer to the Secretary the functions of the Secretary of Health, Education, and Welfare under sections 222 and 1615 of the Social Security Act, relating to rehabilitation services for disabled individuals and rehabilitation services for blind and disabled individuals, respectively;

(ii) under section 405(a)(5) and section 405(c) of the Rehabilitation Act of 1973; and

(iii) with respect to or being administered by the Secretary of Health, Education, and Welfare through the Commissioner of Rehabilitation Services under the Act entitled "An Act to authorize the operation of stands in Federal buildings by blind persons, to enlarge the economic opportunities of the blind, and for other purposes", approved June 20, 1936 (commonly referred to as the Randolph-Sheppard Act) (20 U.S.C. 107–107f).

(3) There are transferred to the Secretary all functions of the National Institute of Education of the Department of Health, Education, and Welfare.

(4) There are transferred to the Secretary all functions of the Institute of Museum Services of the Department of Health, Education, and Welfare.

(5) Nothing in the provisions of this section or in the provisions of this Act shall authorize the transfer of functions under part A of title V of the Economic Opportunity Act of 1964, relating to Project Head Start, from the Secretary of Health, Education, and Welfare to the Secretary.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF AGRICULTURE

SEC. 302. (a) There are transferred to the Secretary all functions of the Secretary of Agriculture or the Department of Agriculture (1) with respect to the operation of the Graduate School, and (2) under the National School Lunch Act and the Child Nutrition Act of 1966, except the functions of the Secretary of Agriculture under section 17 of the Child Nutrition Act of 1966 and the function of the Secretary of Agriculture relating to commodity distribution.

(b) The Secretary shall consult with the Secretary of Agriculture with regard to the preferences of States for and ability of States to use commodities available for distribution.

(c) In setting nutrition standards for the programs transferred to the Secretary by subsection (a), the Secretary shall consult with other Federal agencies having significant responsibility for nutrition policy.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF THE INTERIOR

Sec. 303. (a) There are transferred to the Secretary all functions of the Secretary of the Interior or the Department of the Interior relating to the education of Indians, Alaskan Natives, and Aleuts.

(b) The provisions of subsection (a) shall take effect on the effective date specified in section 601, except that the transfer of functions relating to the operation, construction, and maintenance of schools and dormitories effected by subsection (a) of this section shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting such transfers. Such plan shall be developed in consultation with representatives of the affected tribes, Indian organizations, and other groups.

TRANSFERS OF AGENCIES AND FUNCTIONS FROM THE DEPARTMENT OF DEFENSE

Sec. 304. (a)(1) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Office of Dependents Schools of the Department of Defense.

(2) There are transferred to the Secretary all functions of the Secretary of Defense relating to the operation of overseas schools for dependent children of personnel of the Department of Defense.

(b) The Secretary is authorized to operate a program for the education for overseas dependent children of personnel of the Department of Defense and for education of dependent children of personnel of the Department employed in such program.

(c) In addition to authorities available to the Secretary under this or any other Act, the authorities available to the Secretary of Defense and the Secretaries of the military departments under the Defense Department Overseas Teachers Pay and Personnl Practices Act shall be available to the Secretary with respect to the program transferred under subsection (a).

(d) Notwithstanding the provisions of section 601, the transfer of functions under susbection (a) shall be effective at such time or times and in such manner as the President shall prescribe, but in no case later than three years after the effective date of this Act. Not later than one year after the effective date of this Act, the Secretary shall transmit to the Congress a plan for effecting the transfers of functions under subsection (a). Such plan shall contain recommendations for increasing the participation of parents, teachers, students, school administrators, and members of the Armed Forces in the administration and operation of the schools transferred under this section.

TRANSFERS OF FUNCTIONS FROM THE NATIONAL SCIENCE FOUNDATION

Sec. 305. (a) There are transferred to the Secretary all programs relating to science education of the National Science Foundation or the

Director of the National Science Foundation under section 3(a)(1) of the National Science Foundation Act of 1950 established on the day before the effective date of this Act, except the functions and programs as determined by the Director of the Office of Management and Budget, which relate to (1) fellowships and traineeships integral to the support of scientific research and development, (2) ethical, value, and science policy issues, or (3) communicating science information to nonscientists.

(b) The Secretary is authorized to conduct the programs transferred by subsection (a). In conducting such programs, the Secretary shall consult, as appropriate, with the Director of the National Science Foundation.

(c) Nothing in this section is intended to repeal or limit the authority of the National Science Foundation or the Director of the National Science Foundation to initiate and conduct programs not established prior to the effective date of this Act under section 3(a)(1) of the National Science Foundation Act of 1950.

TRANSFERS OF PROGRAMS FROM DEPARTMENT OF JUSTICE

SEC. 306. There are transferred to the Secretary all functions of the Attorney General and the Law Enforcement Assistance Administration relating to the student loan and grant programs known as the law enforcement and education program and the law enforcement intern program authorized under section 406 (b), (c), and (f) of the Omnibus Crime Control and Safe Streets Act of 1968.

TRANSFERS OF FUNCTIONS FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SEC. 307. There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing loans.

TRANSFER OF THE ADVISORY COUNCIL ON EDUCATION STATISTICS

SEC. 308. (a) There are transferred to the Department all officers, employees, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function of the Advisory Council on Education Statistics.

(b) There are transferred to the Secretary all functions of the Advisory Council on Education Statistics.

EFFECT OF TRANSFERS

SEC. 309. The transfer of a function from an officer or agency to the Secretary shall include the transfer of any aspect of such function or program vested in a subordinate of such officer or in a component of such agency.

TITLE IV—ADMINISTRATIVE PROVISIONS

Part A—Personnel Provisions

OFFICERS AND EMPLOYEES

Sec. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b)(1) Subject to the provisions of chapter 51 of title 5, United States Code, but notwithstanding the last two sentences of section 5108(a) of such title, the Secretary may place in grades GS–16, GS–17, and GS–18 all positions in such grades assigned and employed on August 1, 1978, in connection with functions transferred under this Act, subject to the limitation of the first sentence of section 5108(a) of such title.

(2) Appointments under this subsection may be made without regard to the provisions of section 3324 of title 5, United States Code, relating to the approval by the Civil Service Commission of appointments in grades GS–16, GS–17, and GS–18, if the individual placed in such position is transferred to the Department in connection with a transfer of functions under this Act and, immediately before the effective date of this Act, held a position involving duties comparable to those of such position.

(3) The authority of the Secretary under this subsection to appoint personnel without regard to sections 3324 and 5108(a) of title 5, United States Code, shall cease with respect to any position when the person first appointed to fill such position no longer holds such position.

(c)(1) In addition to the number of positions which may be placed at the GS–16, GS–17, and GS–18 levels under section 5108 of title 5, United States Code, under existing law, or under this Act, the Secretary may appoint—

(A) for the Office of Education Research and Improvement, professional and technical employees, in a number not to exceed one-third of the total number of employees of such office; and

(B) not more than fifteen transitional employees;

without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may fix the compensation of such personnel without regard to the provisions of chapter 51 and subchapter 53 of such title, except the Secretary may not compensate any such personnel in excess of the maximum rate prescribed for GS–18 of the General Schedule contained in section 5332 of title 5, United States Code.

(2) The authority of the Secretary to appoint and compensate personnel under paragraph (1)(B) shall expire three years after the effective date of this Act.

(d)(1) There are authorized for the Department seventy-one additional positions in the competitive service at levels GS–16, GS–17, and GS–18. Such positions shall be for the exclusive use of the Department and shall be in addition to the number of such positions placed in the appropriate grades under section 5108 of title 5, United States Code, or under other provisions of law.

(2) The Secretary is authorized to assign twenty-one of the positions authorized under this subsection to replace, at their former General Schedule levels, the twenty-one positions previously established by law in the Education Division of the Department of Health, Education, and Welfare, except that the Secretary may from time to time evaluate the propriety of the General Schedule level of each such position and make any necessary reductions in such grade level.

(3) For purposes of determining the maximum aggregate number of positions which may be placed at grade levels GS–16, GS–17, or GS–18 under section 5108(a) of title 5, United States Code, of the positions established under this subsection, other than those used to replace positions previously established by law in the Education Division, 63 percent shall be deemed GS–16 positions, 25 percent shall be deemed GS–17 positions, and 12 percent shall be deemed GS–18 positions.

(e)(1) The functions which are administered by the Office of Indian Education established under section 211 and to which section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or other Indian preference laws in effect on the day before the effective date of this Act are applicable and shall continue to be subject to such laws.

(2) Individuals who (A) are, on the day before the effective date of this Act, performing functions subject to section 12 of the Act of June 18, 1934 (25 U.S.C. 472) or other Indian preference laws in effect on the day before the effective date of this Act, and (B) are transferred to a part of the Department other than the Office of Indian Education established by section 211, shall continue to be subject to such laws for the duration of their service in the Department.

(f)(1) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)) provided that such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(2) The Secretary is authorized to provide for incidental expenses, including but not limited to transportation, lodging, and subsistence for such volunteers.

(3) An individual who provides voluntary services under subsection (a) of this section shall not be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and of chapter 171 of title 28, United States Code, relating to tort claims.

EXPERTS AND CONSULTANTS

SEC. 402. The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS–18 of the General Schedule under section 5332 of such title.

Part B—General Provisions

AUTHORITY OF THE SECRETARY

Sec. 411. In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

DELEGATION

Sec. 412. Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall relieve the Secretary of responsibility for the administration of such functions.

REORGANIZATION

Sec. 413. (a) Subject to the provisions of section 202(g) of this Act and subsection (b) of this section, the Secretary is authorized to allocate or reallocate functions among the officers of the Department, and to establish, consolidate, alter, or discontinue such organizational entities within the Department as may be necessary or appropriate. The authority of the Secretary under this subsection does not extend to—

(1) any office, bureau, unit, or other entity within the Department established by statute or any function vested by statute in such an entity or officer of such an entity;

(2) the abolition of organizational entities established by this Act; or

(3) the alteration of the delegation of functions under this Act to any specific organizational entity.

(b)(1) Except as provided in paragraph (2) of this subsection, the Secretary may not consolidate, alter, or discontinue any of the following statutory entities, or reallocate any functions vested by statute in the following statutory entities:

(A) Office of Bilingual Education;
(B) Teacher Corps;
(C) Community College Unit;
(D) National Center for Education Statistics;
(E) Office of Career Education;
(F) National Institute of Education;
(G) Office of Environmental Education;
(H) Office of Consumers' Education;
(I) Office of Libraries and Learning Resources;

(J) Institute of Museum Services; and

(K) Administrative units for guidance and counseling programs, the veterans' cost of instruction program, and the program for the gifted and talented children.

(2) The Secretary may not alter, consolidate, or discontinue any organizational entity continued within the Department and described in paragraph (1) of this subsection or reallocate any function vested by statute in such an entity, unless a period of ninety days has passed after the receipt by the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives of notice given by the Secretary containing a full and complete statement of the action proposed to be taken pursuant to this subsection and the facts and circumstances relied upon in support of such proposed action.

(c) On the effective date of this Act, the following entities shall lapse:

(1) The Education Division of the Department of Health, Education, and Welfare, including the Office of Education;

(2) The Office of the Assistant Secretary for Education of the Department of Health, Education, and Welfare;

(3) The Office of Indian Education of the Department of Health, Education, and Welfare;

(4) The Bureau for the education and training for the handicapped of the Department of Health, Education, and Welfare; and

(5) The Bureau of Occupational and Adult Education of the Department of Health, Education, and Welfare.

REPORTING RELATIONSHIPS

SEC. 414. (a) Consistent with the provisions of section 413, and notwithstanding the provisions of the General Education Provisions Act or of any other Act, any officer or employee of the Department whose functions were transferred by this Act and who was required prior to the effective date of this Act to report to the Commissioner of Education or the Assistant Secretary for Education of the Department of Health, Education, and Welfare shall report to the Secretary.

(b) The Secretary is authorized to delegate the reporting requirements established by subsection (a) to any other officer or employee of the Department.

RULES

SEC. 415. The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

CONTRACTS

SEC. 416. (a) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out the functions of the Secretary in administering the Department.

(b) Notwithstanding any other provision of this title, no authority to enter into contracts or to make payments under this title shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under section 423.

TECHNICAL ADVICE

SEC. 417. The Secretary is authorized to provide advice, counsel, and technical assistance to applicants, potential applicants, and other interested persons with respect to any program or function of the Secretary or the Department. The Secretary shall, upon request, provide technical assistance to any State desiring to develop comprehensive plans applicable to two or more programs administered by the Department.

REGIONAL AND FIELD OFFICES

SEC. 418. The Secretary is authorized to establish, maintain, alter, or discontinue such regional or other field offices as may be necessary or appropriate to perform the functions of the Secretary or the Department.

ACQUISITION AND MAINTENANCE OF PROPERTY

SEC. 419. (a) The Secretary is authorized to—

(1) acquire (by purchase, lease, condemnation, or otherwise), construct, improve, repair, operate, and maintain schools and related facilities, laboratories, research and testing sites and facilities, quarters and related accommodations for employees and dependents of employees of the Department, personal property (including patents), or any interest therein, as may be necessary; and

(2) provide by contract or otherwise for the establishment of eating facilities and other necessary facilities for the health and welfare of employees of the Department at its installations, and purchase and maintain equipment therefor.

(b) The authority available to the Secretary of Health, Education, and Welfare under section 524 of the Education Amendments of 1976 shall also be available to the Secretary.

(c) The authority granted by subsection (a) shall be available only with respect to facilities of a special purpose nature that cannot readily be reassigned for similar Federal activities and are not otherwise available for assignment to the Department by the Administrator of General Services.

FACILITIES AT REMOTE LOCATIONS

SEC. 420. (a) The Secretary is authorized to provide, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available at such remote locations—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) audiovisual equipment, accessories, and supplies for recreation and training;

(5) reimbursement for food, clothing, medicine, and other supplies furnished by such employees in emergencies for the temporary relief of distressed persons;

(6) living and working quarters and facilities; and

(7) transportation for dependents of employees of the Department to the nearest appropriate educational facilities.

(b) The furnishing of medical treatment under paragraph (1) of subsection (a) and the furnishing of services and supplies under paragraphs (2) and (3) of subsection (a) shall be at prices reflecting reasonable value as determined by the Secretary.

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of the cost of such work or services or to refund excess sums when necessary.

USE OF FACILITIES

SEC. 421. (a) (1) To carry out the functions of the Secretary, the Secretary may use the research, equipment, services, and facilities of any agency or instrumentality of the United States or of any State, or of any political subdivision thereof, or of any Indian tribe or tribal organization, or of any foreign government, with the consent of and with or without reimbursement to such agency, instrumentality, State, political subdivision, Indian tribe or tribal organization, or foreign government.

(2) Notwithstanding the transfer of functions from the Department of Defense to the Department under section 304, all personnel performing such functions shall be treated, for the purpose of access to services and facilities provided by the Department of Defense, as employees of the Department of Defense.

(b) The Secretary is authorized to permit public and private agencies, corporations, associations, Indian tribes or tribal organizations, other organizations, or individuals to use any real property, or any facilities, structures, or other improvement thereon, under the custody and control of the Secretary for Department purposes. The Secretary shall permit the use of such property, facilities, structures, or improvements under such terms and rates and for such periods as may be in the public interest, except that the periods of such uses may not exceed five years. The Secretary may require permittees under this section to recondition and maintain, at their own expense, the real property, facilities, structures, and improvements used by such permittees to a standard satisfactory to the Secretary. This subsection shall not apply to excess property as defined in section 3(e) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(e)).

(c) Proceeds from reimbursements under this section may be credited to the appropriation of funds that bear or will bear all or part of such cost of the equipment or facilities provided or to refund excess sums when necessary.

COPYRIGHTS AND PATENTS

SEC. 422. The Secretary is authorized to acquire any of the following described rights if the property acquired thereby is for use by or for, or useful to, the Department:

(1) copyrights, patents, and applications for patents, designs, processes, and manufacturing data;

(2) licenses under copyrights, patents, and applications for patents; and

(3) releases, before suit is brought, for past infringement of patents or copyrights.

GIFTS AND BEQUESTS

SEC. 423. The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests, and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

WORKING CAPITAL FUND

SEC. 424. The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are hereby authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payment for loss or damage to property owned by the fund. There shall be covered into the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

FUNDS TRANSFER

SEC. 425. The Secretary may, when authorized in an appropriation Act in any fiscal year, transfer funds from one appropriation to another within the Department, except that no appropriation for any fiscal year shall be either increased or decreased pursuant to this section by more than 5 per centum and no such transfer shall result in increasing any such appropriation above the amount authorized to be appropriated therefor.

SEAL OF THE DEPARTMENT

SEC. 426. The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

ANNUAL REPORT

SEC. 427. (a) The Secretary shall, as soon as practicable after the end of each fiscal year, prepare and transmit a report to the President for transmission to the Congress concerning the activities of the Department during that fiscal year. Such report shall—

(1) include a statement of the goals, priorities, and plans for the Department which are consistent with the purposes of the Department as specified in section 102 and the findings of this Act as specified in section 101;

(2) contain an assessment of the progress made during that fiscal year and anticipated future progress toward the attainment of—

(A) the goals, priorities, and plans for the Department specified pursuant to paragraph (1);

(B) the effective and efficient management of the Department; and

(C) the coordination of the functions of the Department;

(3) contain and analyze objective data concerning—

(A) changing trends in education, as measured by indicators such as enrollments, expenditures, and numbers of teachers and other categories of professional and related personnel;

(B) areas of critical concern such as education of the disadvantaged and education in rural and urban areas; and

(C) the performance of the American educational system, as measured by such indicators as the overall results of student testing on generally recognized standard examinations for entrance to secondary and postsecondary institutions;

(4) include budget projections for the five fiscal years succeeding the fiscal year for which the report is made which are based on actual or anticipated appropriations for the fiscal year for which the report is made; and

(5) contain a separate section on the recommendations made by the Federal Interagency Committee on Education regarding the improvement of the coordination and development of Federal education programs.

(b)(1) In preparing and developing the report required by subsection (a), the Secretary shall, to the maximum extent practicable, consult with members of the public, including representatives of parents, students, educators, Indian tribes, State and local governments, and other organizations and individuals. Within ninety days after the transmission of such report to the Congress, the Secretary shall hold public hearings in the District of Columbia and in such other locations as the Secretary deems appropriate to maximize public participation.

(2) The Secretary may reimburse any person for expenses reasonably incurred in the course of consultation or hearings under paragraph (1) if such person—

(A) has made or is likely to make a material contribution to the work of the Department; and

(B) could not otherwise participate fully and effectively in such consultation.

(3) For purposes of this section, the term "person" shall have the same meaning as in section 551(2) of title 5, United States Code.

RELATIONSHIP TO GENERAL EDUCATION PROVISIONS ACT

SEC. 428. Except where inconsistent with the provisions of this Act, the General Education Provisions Act shall apply to functions transferred by this Act to the extent applicable immediately prior to the effective date of this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 429. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

TITLE V—TRANSITIONAL, SAVINGS, AND CONFORMING PROVISIONS

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 501. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the

Budget and Accounting Procedures Act of 1950, are hereby transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Positions expressly specified by statute or reorganization plan to carry out functions transferred by this Act, personnel occupying those positions on the effective date of this Act, and personnel authorized to receive compensation in such positions at the rate prescribed for offices and positions at level I, II, III, IV, or V of the Executive Schedule contained in sections 5312 through 5316 of title 5, United States Code, on the effective date of this Act, shall be subject to the provisions of section 503.

EFFECT ON PERSONNEL

SEC. 502. (a) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(b) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

AGENCY TERMINATIONS

SEC. 503. Except as otherwise provided in this Act, whenever all of the functions of any agency, commission, or other body, or any component thereof, have been terminated or transferred by this Act from such agency, commission, or other body, or component thereof, such agency, commission, or other body, or component, shall terminate. If an agency, commission, or other body, or any component thereof, terminates pursuant to the provisions of the preceding sentence, each position and office therein which was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule contained in sections 5313 through 5316 of title 5, United States Code, shall terminate.

INCIDENTAL TRANSFERS

SEC. 504. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act. The Director of the Office of Management and Budget shall provide for the termination of the affairs of all agencies, commissions, offices, and other bodies terminated by this Act and for such further measures and dispositions as may be necessary to effectuate the purposes of this Act.

SAVINGS PROVISIONS

SEC. 505. (a) All orders, determinations, rules regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act taken effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not effect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official, then such suit shall be continued with the appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

SEPARABILITY

SEC. 506. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

REFERENCE

SEC. 507. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or Department.

TECHNICAL AMENDMENTS

SEC. 508. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Education".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Education.".

(c) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"(15) Secretary of Education.".

(d) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"(67) Under Secretary of Education.".

(e) Section 5215 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) Assistant Secretaries of Education (9).

"(123) Director of the Office for Civil Rights of Department of Education.

"(124) Inspector General of the Department of Education.

"(125) General Counsel of the Department of Education.".

(f) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"(144) Administrator of Education for Overseas Dependent Children of the Department of Education.

"(145) Additional Officer, Department of Education.".

(g) Section 5 of the Alcohol and Drug Abuse Education Act is amended—

(1) by inserting "of Health and Welfare, the Secretary of Education," after "Secretary"; and

(2) by striking out "the Department of Health, Education, and Welfare" and inserting in lieu thereof "the Department of Health and Welfare, the Department of Education,".

AMENDMENT TO THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Sec. 509. Section 306 of the Comprehensive Employment and Training Act of 1973 is amended to read as follows:

"CONSULTATION WITH THE SECRETARIES OF EDUCATION AND OF HEALTH AND WELFARE

"Sec. 306. The Secretary of Labor shall consult with the Secretary of Health and Welfare with respect to arrangements for services of a health or welfare character under this Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this Act, and the Secretary of Education shall solicit the advice and comments of State educational agencies with respect to education services. Such education services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provision of basic education and vocational training directly, pursuant to the provisions of this title, the Secretary of Labor shall obtain the approval of the Secretary of Education for such arrangements.".

CONTRACTS WITH INDIAN TRIBAL ORGANIZATIONS

Sec. 510 (a). The Indian Self-Determination and Educational Assistance Act is amended by inserting after section 102 the following new section:

"CONTRACTS BY THE SECRETARY OF EDUCATION

"Sec. 102A. (a) (1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the

Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

"(A) the service to be rendered to the Indian beneficiaries of of the particular program or function to be contracted for will not be satisfactory;

"(B) adequate protection of trust resources will not be assured by such contract; or

"(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

"(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

"(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

(b) Section 103 of such Act is amended by striking out "Health, Education, and Welfare" wherever it appears and inserting in lieu thereof "Health and Welfare".

(c) Section 104 of such Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

"(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

"(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.".

(d)(1) Section 106(a) of such Act is amended by striking out "102" and inserting "102, 102A,".

(2) Section 106(b) of such Act is amended by inserting "102A," immediately after "102,".

(3) Section 106(c) of such Act is amended by striking out "102" and inserting "102, 102A,".

(4) Section 106(d) of such Act is amended by inserting "102A," immediately after "102,".

(5) Section 106(e) of such Act is amended by inserting "102A," immediately after "102,".

(6) Section 106(f) of such Act is amended by striking out "102" and inserting "102, 102A,".

(7) Section 106(g) of such Act is amended by—

(A) inserting "102A," immediately after "102,"; and

(B) Striking out "Interior and Health, Education, and Welfare" and inserting "Interior, Health and Welfare, and Education".

(8) Section 106(h) is amended by striking out "102" and inserting "102, 102A,".

(e)(1) Section 107(a) of such Act is amended by striking out "Interior and of Health, Education, and Welfare" and inserting "Interior, of Health and Welfare, and of Education".

(2) Section 107(c) of such Act is amended by striking out "Interior and the Secretary of Health, Education, and Welfare" and inserting "Interior, the Secretary of Health and Welfare, and the Secretary of Education".

(f) Section 109 of such Act is amended by inserting "102A," after "102,".

(g) Section 5(a) of such Act is amended by striking out "Interior or the Secretary of Heath, Education, and Welfare," and inserting in lieu thereof "Interior, the Secretary of Health and Welfare, or the Secretary of Education".

(h)(1) Section 8 of the Act of August 5, 1954 (42 U.S.C. 2004b) is amended by inserting "102A," after "102,".

(2) The first sentence of section 6(a)(2) of the Military Selective Service Act of 1967 (50 U.S.C. App. 456) is amended by striking out "amended" and inserting "amended, or the Department of Education Organization Act".

AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 511. Section 103(c)(2)(B) of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof the following new sentence: "The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.".

REDESIGNATION

SEC. 512. (a) The Department of Health, Education, and Welfare is hereby redesignated the Department of Health and Welfare, and the Secretary of Health, Education, and Welfare is hereby redesignated the Secretary of Health and Welfare.

(b) Any reference to the Department of Health, Education, and Welfare, the Secretary of Health, Education, and Welfare, or any other official of the Department of Health, Education, and Welfare in any law, rule, regulation, certificate, directive, instruction, or other official paper in force on the effective date of this Act shall be deemed to refer and apply to the Department of Health and Welfare, the Secretary of Health and Welfare, or the appropriate official of the Department of Health and Welfare, respectively, except to the extent such reference is to a function transferred to the Secretary under this Act.

TRANSITION

SEC. 513. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE VI—EFFECTIVE DATE AND INTERIM APPOINTMENTS

EFFECTIVE DATE

SEC. 601. (a) The provisions of this Act shall take effect one hundred eighty days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 505(b)(2) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

SEC. 602. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provisions of law, the President may designate and officer in the executive branch to act in such office for one hundred twenty days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

Changes in Existing Law

In compliance with subsection 4 of Rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed shown in Roman):

UNITED STATES CODE

TITLE 3—THE PRESIDENT

Chapter 1—Presidential Elections and Vacancies

Sec. 1.***

* * * * * * *

Sec. 19. Vacancy in Offices of Both President and Vice President; Officers Eligible to Act.—

(a)(1)***

* * * * * * *

(d)(1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of the President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor, Secretary of Health[, Education,] and Welfare, Secretary of Housing and Urban Development, Secretary of [Transportation] *Transportation, Secretary of Energy, Secretary of Education.*

TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

Part I—THE AGENCIES GENERALLY

Chapter 1—Organization

§ 101. Executive departments

The Executive departments are:

* * * * * * *

The Department of Health[, Education,] and Welfare.

* * * * * * *

The Department of Education.

* * * * * * *

Part III—EMPLOYEES

Chapter 53—Pay Rates and Systems

* * * * * * *

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(10) Secretary of Health [,Education,] and Welfare.

* * * * * * *

(15) Secretary of Education

* * * * * * *

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(6) Under Secretary of Health[, Education] and Welfare.

* * * * * * *

(67) Under Secretary of Education.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(17) Assistant Secretaries of Health[, Education] and Welfare (5).

* * * * * * *

(41) General Counsel of the Department of Health[, Education] and Welfare.

* * * * * * *

(99) Commissioner of Social Security, Department of Health [, Education] and Welfare.

* * * * * * *

(122) Assistant Secretaries of Education (9).

(123) Director of the Office for Civil Rights of the Department of Education.

(*124*) *Inspector General of the Department of Education.*

(*125*) *General Counsel of the Department of Education.*

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) * * *

* * * * * * *

(24) Assistant Secretary of Health[, Education] and Welfare for Administration.

* * * * * * *

(41) Commissioner of Education, Department of Health[, Education] and Welfare.

* * * * * * *

(43) Commissioner of Food and Drugs, Department of Health[, Education] and Welfare.

* * * * * * *

(52) Commissioner of Vocational Rehabilitation, Department of Health[, Education] and Welfare.

* * * * * * *

(53) Commissioner of Welfare, Department of Health [, Education] and Welfare.

(*144*) *Administrator of Education for Overseas Dependent Children of the Department of Education.*

(*145*) *Additional Officer, Department of Education.*

* * * * * * *

PUBLIC LAW 90–40

June 30, 1967

AN ACT To amend the Universal Military Training and Service Act, and for other purposes

SEC. 1. * * *

* * * * * * *

DEFERMENTS AND EXEMPTIONS FROM TRAINING AND SERVICE

SEC. 6(a)(2). Commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service while on active duty and assigned to staff the various offices and bureaus of the Public Health Service, including the National Institutes of Health, or assigned to the Coast Guard, the Bureau of Prisons, Department of Justice, or the Environmental Science Services Administration or who are assigned to assist Indian tribes, groups, bands, or communities persuant to the Act of August 5, 1954 (68 Stat. 674), as [amended] *amended, or the Department of Education Organization Act* shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4. Notwithstanding the preceding sentence, commissioned officers of the Public Health Service and members of the Reserve of the Public Health Service who, prior to the enactment of this paragraph, had been detailed or assigned to duty other than that specified in the preceding sentence shall not be required to be registered under section 3 and shall be relieved from liability for training and service under section 4.

PUBLIC LAW 93–203

December 28, 1973

AN ACT To assure opportunities for employment and training to unemployed and underemployed persons

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Comprehensive Employment and Training Act of 1973".

* * * * * * *

SEC. 306. The Secretary of Labor shall consult with the Secretary of Health [, Education,] and Welfare, with respect to arrangements for services of a health[, education,] or welfare character under this *Act. The Secretary of Labor shall consult with the Secretary of Education with respect to arrangements for services of an educational nature under this* Act, and the Secretary of [Health,] Education [and Welfare] shall solicit the advice and comments of State educational agencies with respect to education services. Such *education* services include but are not limited to basic or general education; educational programs conducted for offenders; institutional training; health care, child care, and other supportive services; and new careers and job restructuring in the health, education, and welfare professions. When the Secretary of Labor arranges for the provisions of basic education and vocational training directly, pursuant to the provisions of this title, [he] *the Secretary of Labor* shall obtain the approval of the Secretary of [Health,] Education [, and Welfare] for such arrangements.

PUBLIC LAW 93–380

August 21, 1974

AN ACT To extend and amend the Elementary and Secondary Education Act of 1965, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education Amendments of 1974".

* * * * * * *

103(c)(2)(A) * * *

(B) For purposes of this section, the Secretary of Health [, Education,] and Welfare shall determine the number of children aged five to seventeen, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the 1970 decennial census for a nonfarm family of four in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to him before January 1 of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to him at the time of such determination. *The Secretary of Health and Welfare shall transmit the information required by this subparagraph to the Secretary of Education not later than February 1 of each year.*

PUBLIC LAW 93–422

September 21, 1974

AN ACT To extend the Drug Abuse Education Act of 1970 for three years

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Alcohol and Drug Abuse Education Act Amendments of 1974".

SEC. 2(a) * * *

* * * * * * *

SEC. 5. TECHNICAL ASSISTANCE—

The Secretary *of Health and Welfare, the Secretary of Education*, and the Attorney General (on matters of law enforcement) shall, when requested, render technical assistance to local educational agencies, public and private nonprofit organizations, and institutions of higher education in the development and implementation of programs of drug and alcohol abuse education. Such technical assistance may, among other activities, include making available to such agencies or institutions information regarding effective methods of coping with problems of drug and alcohol abuse, and making available to such agencies or institutions personnel of the Department of Health **[**, Education, and Welfare**]** *and Welfare, the Department of Education* and the Department of Justice, or other persons qualified to advise and assist in coping with such problems or carrying out a drug and alcohol abuse education program.

PUBLIC LAW 93–638

January 4, 1975

AN ACT To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for

Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Self-Determination and Education Assistance Act".

* * * * * * *

REPORTING AND AUDIT REQUIREMENTS

SEC. 5. (a) Each recipient of Federal financial assistance from the Secretary of [Interior or the Secretary of Health, Education, and Welfare,] *Interior, the Secretary of Health and Welfare, or the Secretary of Education*, under this Act, shall keep such records as the appropriate Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

* * * * * * *

TITLE I—INDIAN SELF-DETERMINATION ACT

SEC. 101. This title may be cited as the "Indian Self-Determination Act".

CONTRACTS BY THE SECRETARY OF THE INTERIOR

SEC. 102. * * *

CONTRACTS BY THE SECRETARY OF EDUCATION

SEC. 102A. (a)(1) The Secretary of Education is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of such Indian tribe to carry out any or all of the functions, authorities, and responsibilities transferred to the Secretary of Education from the Secretary of the Interior or the Department of the Interior under the Department of Education Organization Act, except that the Secretary of Education may decline to enter into any contract requested by an Indian tribe if he finds in accordance with the procedures required under paragraph (2), that—

(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory;

(B) adequate protection of trust resources will not be assured by such contract; or

(C) the proposed project or function to be contracted for cannot be properly complete or maintained by the proposed contract.

(2)(A) In making the findings required under paragraph (1), the Secretary of Education shall consider whether the tribe or tribal organization would be deficient in performance under the contract with

respect to (i) equipment, (ii) bookkeeping and accounting procedures, (iii) substantive knowledge of the program to be contracted for, (iv) community support for the contract, (v) adequately trained personnel, or (vi) other necessary components of contract performance.

(B) Whenever the Secretary of Education declines to enter into a contract or contracts pursuant to paragraph (1) of this subsection, the Secretary of Education shall (i) state objections in writing to the tribe within sixty days of such declination; (ii) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome such stated objections; and (iii) provide the tribe with a hearing, under such rules and regulations as the Secretary of Education shall promulgate, and the opportunity for appeal to the Secretary of Education on the objections raised to such declination.

"(3) The Secretary of Education is authorized to require any tribe requesting that the Secretary of Education enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance. Each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of the Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the sovereign immunity of the tribe outside or beyond the coverage and limits of the policy of insurance.".

CONTRACTS BY THE SECRETARY OF HEALTH [, EDUCATION,] AND WELFARE

SEC. 103. (a) The Secretary of Health [, Education,] and Welfare is directed, upon the request of any Indian tribe, to enter into a contract or contracts with any tribal organization of any such Indian tribe to carry out any or all of his functions, authorities, and responsibilities under the Act of August 5, 1954 (68 Stat. 674), as amended: *Provided, however*, That the Secretary may initially decline to enter into any contract requested by an Indian tribe if he finds that: (1) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted for will not be satisfactory; (2) adequate protection of trust resources is not assured; or (3) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract: *Provided further*, That the Secretary of Health [, Education,] and Welfare, in arriving at his finding, shall consider whether the tribe or tribal organization would be deficient in performance under the contract with respect to (A) equipment, (B) bookkeeping and accounting procedures, (C) substantive knowledge of the program to be contracted for, (D) community support for the contract, (E) adequately trained personnel, or (F) other necessary components of contract performance.

(b) Whenever the Secretary of Health [, Education,] and Welfare declines to enter into a contract or contracts pursuant to subsection (a) of this section, he shall (1) state his objections in writing to the tribe within sixty days; (2) provide, to the extent practicable, assistance to the tribe or tribal organization to overcome his stated objections; and (3) provide the tribe with a hearing, under such rules and regulations as he shall promulgate, and the opportunity for appeal on the objections raised.

(c) The Secretary of Health [, Education,] and Welfare is authorized to require any tribe requesting that he enter into a contract pursuant to the provisions of this title to obtain adequate liability insurance: *Provided, however*, That each such policy of insurance shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the tribe's sovereign immunity from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage and limits of the policy of insurance.

SEC. 104 (a) * * *

* * * * * * *

(c) The Secretary of Education may, in accordance with regulations adopted pursuant to section 107 of this Act, make grants to any Indian tribe or organization for—

(1) the development, construction, operation, provision, or maintenance of adequate education facilities or services, including the training of personnel for such development, construction, operation, provision, or maintenance, from funds appropriated to the Department of Education for Indian education services or Indian education facilities; or

(2) planning, training, evaluation, or other activities designed to improve the capacity of a tribal organization to enter into a contract or contracts pursuant to section 102A of this Act.

[(c)]*(d)* The provisions of any other Act notwithstanding, any funds made available to a tribal organization under grants pursuant to this section may be used as matching shares for any other Federal grant programs which contribute to the purposes for which grants under this section are made.

* * * * * * *

SEC. 105(a) * * *

* * * * * * *

(b) The Act of August 5, 1954 (68 Stat. 674), as amended, is further amended by adding a new section 8 after section 7 of the Act, as follows:

"SEC. 8. In accordance with subsection (d) of section 214 of the Public Health Service Act (58 Stat. 690), as amended, upon the request of any Indian tribe, band, group, or community, commissioned officers of the Service may be assigned by the Secretary for the purpose of assisting such Indian tribe, group, band, or community in carrying out the provisions of contracts with, or grants to, tribal organizations pursuant to section 102, *102A*, 103, or 104 of the Indian Self-Determination and Education Assistance Act".

* * * * * * *

ADMINISTRATIVE PROVISIONS

SEC. 106. (a) Contracts with tribal organizations pursuant to sections [102] *102, 102A*, and 103 of this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the appropriate Secretary, such contracts may be negotiated without advertising and need not conform with the provisions of the Act of August 24, 1935 (49 Stat. 793), as amended: *Provided*, That the appropriate Secretary may waive any provisions of such contracting laws or regulations which he determines are not appropriate for the purposes of the contract involved or inconsistent with the provisions of this Act.

(b) Payments of any grants or under any contracts pursuant to section 102, *102A*, 103, or 104 of this Act may be made in advance or by way of reimbursement and in such installments and on such conditions as the appropriate Secretary deems necessary to carry out the purposes of this title. The transfer of funds shall be scheduled consistent with program requirements and applicable Treasury regulations, so as to minimize the time elapsing between the transfer of such funds from the United States Treasury and the disbursement thereof by the tribal organization, whether such disbursement occurs prior to or subsequent to such transfer of funds. Tribal organizations shall not be held accountable for interest earned on such funds, pending their disbursement by such organization.

(c) Any contract requested by a tribe pursuant to sections [102] *102*, *102A*, 103 of this Act shall be for a term not to exceed one year unless the appropriate Secretary determines that a longer term would be advisable: *Provided*, That such term may not exceed three years and shall be subject to the availability of appropriations: *Provided, further*, That the amounts of such contracts may be renegotiated annually to reflect factors, including but not limited to cost increases beyond the control of a tribal organization.

(d) Notwithstanding any provision of law to the contrary, the appropriate Secretary may, at the request or consent of a tribal organization, revise or amend any contract or grant made by him pursuant to sections 102, *102A*, 103, or 104 of this Act with such organization as necessary to carry out the purposes of this title: *Provided, however*, That whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, such retrocession shall become effective upon a date specified by the appropriate Secretary not more than one hundred and twenty days from the date of the request by the tribe or at such later date as may be mutually agreed to by the appropriate Secretary and the tribe.

(e) In connection with a contract or grant made pursuant to section 102, *102A*, 103, or 104 of this Act, the appropriate Secretary may permit a tribal organization to utilize, in carrying out such contract or grant, existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within his jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance.

(f) The contracts authorized under sections [102] *102*, *102A*, and 103 of this Act and grants pursuant to section 104 of this Act may include provisions for the performance of personal services which would otherwise be performed by Federal employees including, but in no way limited to, functions such as determination of eligibility of applicants for assistance, benefits, or services, and the extent or amount of such assistance, benefits, or services, all in accordance with the terms of the contract or grant and applicable rules and regulations of the appropriate Secretary: *Provided*, That the Secretary shall not make any contract which would impair his ability to discharge his trust responsibilities to any Indian tribe or individuals.

(g) Contracts and grants wth tribal organizations pursuant to sections 102, *102A*, 103, and 104 of this Act and the rules and regulations adopted by the Secretaries of the [Interior and Health, Education, and Welfare] *Interior, Health and Welfare, and Education* pursuant to section 107 of this Act shall include provisions to assure the fair and uniform provision by such tribal organizations of the services and assistance they provide to Indians under such contracts and grants.

(h) The amount of funds provided under the terms of contracts entered into pursuant to sections [102] *102, 102A*, and 103 shall not be less than the appropriate Secretary would have otherwise provided for his direct operation of the programs or portions thereof for the period covered by the contract: *Provided*, That any savings in operation under such contracts shall be utilized to provide additional services or benefits under the contract.

PROMULGATION OF RULES AND REGULATIONS

SEC. 107. (a) The Secretaries of the [Interior and of Health, Education, and Welfare] *Interior, of Health and Welfare, and of Education* are each authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purposes of carrying out the provisions of this title.

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(c) The Secretary of the Interior and the Secretary of [Health, Education, and Welfare] *Health and Welfare, and the Secretary of Education* are authorized to revise and amend any rules or regulations promulgated pursuant to this section: *Provided*, That prior to any revision or amendment to such rules or regulations, the respective Secretary or Secretaries shall present the proposed revision or amendment to the Committees on Interior and Insular Affairs of the United States Senate and House of Representatives and shall, to the extent practicable, consult with appropriate national or regional Indian organizations and shall publish any proposed revisions in the Federal Register not less than sixty days prior to the effective date of such rules and regulations in order to provide adequate notice to, and receive comments from, other interested parties.

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REASSUMPTION OF PROGRAMS

SEC. 109. Each contract or grant agreement entered into pursuant to sections 102, *102A*, 103, and 104 of this Act shall provide that in any case where the appropriate Secretary determines that the tribal organization's performance under such contract or grant agreement involves (1) the violation of the rights or endangerment of the health, safety, or welfare of any persons; or (2) gross negligence or mismanagement in the handling or use of funds provided to the tribal organization pursuant to such contract or grant agreement, such Secretary may, under regulations prescribed by him and after providing notice and hearing to such tribal organization, rescind such contract or grant agreement and assume or resume control or operation of the program, activity, or service involved if he determines that the tribal organization has not taken corrective action as prescribed by him: *Provided*, That, the appropriate Secretary may, upon notice to a tribal organization, immediately rescind a contract or grant and resume control or operation of a program, activity, or service if he finds that there is an immediate threat to safety and, in such cases, he shall hold a hearing on such action within ten days thereof. Such Secretary may decline to enter into a new contract or grant agreement and retain control of such program, activity, or service until such time as he is satisfied that the violations of rights or endangerment of health, safety, or welfare which necessitated the rescission has been corrected. Nothing in this section shall be construed as contravening the Occupational Safety and Health Act of 1970 (84 Stat. 1590), as amended (29 U.S.C. 651).

ADDITIONAL VIEWS OF MR. PERCY, MRS. HUMPHREY, AND MR. DANFORTH

We support the creation of a Department of Education. However, we oppose the transfer of the U.S. Department of Agriculture (USDA) child nutrition programs into the new Department. A motion to delete the child nutrition programs from S. 991 was defeated in committee by tie vote (8 to 8). The amendment will again be offered on the floor of the Senate.

There are a number of sound reasons for keeping these programs in USDA. First, a Department of Education will be dominated by educators. Educators have had a history of obstructing the placement of these programs within the schools. In testimony received by the committee, the Food Research and Action Center, a nonprofit, antihunger advocacy center stated that:

> A good portion of our effort has been in the area of school lunch and school breakfast program expansion. Time after time we have found that State and local boards of education have been at best uninterested, and at worst obstructionists, in this expansion effort. FRAC and/or legal services attorneys have brought numerous lawsuits seeking to expand school lunch programs in local areas. These lawsuits, brought on behalf of low-income plaintiffs, resulted in the establishment of school lunch programs in Hartford, Conn.; Bridgeport, Conn.; Mount Vernon, N.Y.; Cleveland, Ohio; and the State of Rhode Island, among others. In many of these areas, litigation would not have been required if state and local boards of education and education administrators had viewed the school food programs as integral parts of an educational environment.
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> In short, in the past, poor people have not been able to look to education administrators and policymakers to spearhead the need for school food programs. Instead, these administrators have often taken the position that such programs are expensive, administratively burdensome, and must take a distant back seat to other education priorities.

In addition to FRAC's testimony, The Children's Foundation testified that it is completing a study on barriers to the implementation of the school breakfast program. The study is entitled "I'd Rather Go to Hell Than Run a Breakfast Program." This was the direct quote of a local school official. It is indicative of the view that many such officials have of these programs.

Second, the transfer will jeopardize the funding of the child nutrition programs. Since educators have not generally viewed nutrition programs as a vital part of the educational process, it is reasonable to assume that a Federal Department of Education would be no more responsive to the importance of such programs. When faced with budgetary constraints, these programs will be seen as expendable. This would be particularly true of those child nutrition programs with little or no connection to school systems, such as the summer food and day care feeding programs.

Third, USDA would still keep the research support vital to these programs. USDA is increasing its research in both nutrition and agricultural economics. It would be counterproductive to remove the child nutrition programs from a Department that is presently equipped to do research in areas directly related to the improvement of these programs.

Fourth, although the administration has pledged its continued support for the commodities aspect of these programs, this guarantee may become worthless several years down the road as the programs become dominated by educators. Moreover, we must not lose sight of one of the original reasons behind the creation of the school lunch program, which was commodity support. Instead of paying farmers not to grow crops, we are paying them for their surplus crops and using those surplus crops to feed hungry children. This is a much more efficient use of taxpayers' money. As the entire Senate Committee on Agriculture brought to our attention:

> The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stabilization to those farm commodities that do not enjoy the protection of Government price support programs.

Fifth, the transfer is opposed by a broad spectrum of groups, including agriculture groups, child-oriented public interest groups, nutritionists, and school food administrators. This grouping includes the American School Food Service Association, which is the largest national association representing people who direct, manage, and work in school nutrition programs at the State and local level. These groups have worked the closest with and are the most knowledgeable on the child nutrition programs.

Sixth, the President's reorganization project is presently conducting a study of the Federal nutrition effort. This study is not scheduled to be completed until next year. As a result, the transfer of these programs at this time would be premature.

Regarding nutrition education, we would again like to quote one of our witnesses, Mr. Hendrik Wentink of the Poultry and Egg Institute of America. He states:

> While nutrition education historically has nowhere received the emphasis it has deserved, it cannot be disputed that the USDA is exerting aggressive leadership in the area today. Secretary Bergland has formed a Human Nutrition Policy Committee to coordinate all USDA nutrition programs including food assistance, safety, quality research, and education. Interim regulations to implement nutrition education grants to the States under the 1977 Child Nutrition Act Amendments have been promulgated. The Department is conducting a novel nutrition awareness project which will test out a multimedia approach for issuing and reinforming

nutrition messages. Authority under recent amendments of the National School Lunch Act to prohibit the sale of "junk food" in participating schools is being invoked. The focus of Extension activities is being expanded to reach urban areas more effectively. The very substantial expanded food and nutrition program within the Extension Service is developing a special program to emphasize nutrition counseling for food stamp users. And these are far from all the fronts of the USDA's nutrition education campaign.

It has been stated that the best place for nutrition education is in the schools. We agree. But we also ask, if educators are so interested in nutrition education, why have they not instituted these programs in the schools? The evidence indicates educators are not interested. In fact, they are so disinterested that they have actually promoted non-nutritious "junk foods" in the schools. In order to raise extra money, they have candy and soda machines in the schools. These junk food machines compete with the nutritious lunches served in the school cafeteria. Congress recognized this problem, a problem created by educators, last year when it mandated USDA to ban the sale of junk foods that compete with the school lunch program. USDA has responded to that mandate and that ban is going into effect this summer. How can we justify transferring these programs to a Department which will be dominated by such insensitive interests?

The question has been asked, "Where will these programs best operate and serve our Nation's children?" The answer is that they will best operate and serve our children in USDA. In recent years, we have to understand that it is vitally important that our food, nutrition, and agricultural policies be coordinated. As Senator Talmadge stated in a letter to the committee, cosigned by the entire Senate Committee on Agriculture, Nutrition and Forestry, USDA is the best place for achieving maximum coordination. In the letter, he states:

> GAO in a recent report on nutrition research, found "a lack of central focus and coordination" to be the No. 1 barrier to progress in the area. We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or departments; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture.

As we have shown, educators have a marked disinterest in nutrition education and in the school feeding programs. On the other hand, USDA has demonstrated great interest and enthusiasm. Transfer of these programs would not solve any problems, it would create new ones. The child nutrition programs should and must remain in a broad-based Department of Agriculture.

Charles H. Percy.
Muriel Humphrey.
John C. Danforth.

ADDITIONAL VIEWS OF MR. STEVENS

While I support the general thrust of S. 991, to create a separate Department of Education, I am opposed to the inclusion of the Bureau of Indian Affairs schools and education programs.

Last May, I chaired a Government Affairs hearing, and the position of the American Indian community was made quite clear by the many Indian organizations that testified. The vast majority of Indians and Alaskan Natives are opposed to the removal of education programs from BIA which is responsible for matters affecting their interest. In Alaska, the largest Indian organization, the Alaska Federation of Natives, which represents all Alaskan Natives and Aleuts, opposed this transfer because they have not had enough time to discuss it with their members. They have informed me that the bill also does not adequately address trust responsibility or tribal sovereignty rights.

It is most unfortunate that the committee voted against the majority of the Indian communities wishes, during the same time period when representatives of the Indian nations were dramatically presenting their views to Congress and the administration. The enormous personal efforts made in the longest walk from California to the Nation's Capitol is symbolic of the traditional spirit ever present in the tribes. It seems to me that this Congress should be listening to these Native Americans instead of doing what they think is best for the Indian without proper consultation.

Early in 1976 are administration affirmed that issues affecting the American Indian would be resolved in the tribal council rooms and not in Washington, D.C.

It is distressing to me that this promise was broken. Because of overwhelming opposition in the Indian community, I offered an amendment in committee to delete the transfer of BIA schools and education programs. I will continue to oppose this transfer until the concerns of the Indian nations have been met.

Furthermore, I feel that the civil rights function of the Department of Education should contain an office responsible for addressing the bilingual education concerns of Indians. This office should be totally committed to the many unique problems of the Indian community and staffed accordingly. The problems Alaska has had in striving to meet the Supreme Court mandate in this area, demonstrate the need for a separate Indian division within the Office of Civil Rights.

Alaska has been embroiled in a battle with the Office for Civil Rights for 3 years. Last summer my State had been threatened with administrative hearings and a possible penalty of the loss of all Federal education funds. The State department of education has now reached a general consensus on a bilingual compliance plan. However, I feel if a Native American had been involved in the proceedings from the beginning there would have been more sympathy with the numerous dialects and rural conditions my State must overcome in order to comply with the 1974 Supreme Court decision.

TED STEVENS.

ADDITIONAL VIEWS OF MR. DANFORTH AND MR. ROTH

Our pluralistic, locally controlled system of education is one of this Nation's greatest assets. The establishment of a Cabinet-level Department of Education is not in any way intended or expected to result in expanded Federal involvement in education issues that are the primary responsibility of States and localities. Rather, the new Department is intended to strengthen the capacity of States, localities, and private institutions to meet their educational needs. The Secretary of Education must give high priority to simplifying Federal procedures and eliminating unnecessary requirements and constraints on the recipients of Federal education funds.

In establishing a Cabinet-level Department of Education, the temptation is going to be strong for the new Department to start flexing its muscles, to see itself as the source of all decisionmaking in education. That would be just exactly the wrong approach for it to take. It would be a real departure from what is very important to our tradition as a country, and that is that education is not run from Washington.

It should be made very clear that this bill does not serve as a mandate for the new Department to issue directives and regulations which impose its opinions on local school districts.

It is our intention that the Federal Government should be in the business of assisting and supporting local school districts and State governments as they address the problem of education. Federal education policy should supplement and complement, rather than direct or duplicate, State efforts to meet the Nation's education needs. The new Department of Education should not be in the business of preempting the decisionmaking process and aggregating to itself new powers to manipulate local decisions.

It should be noted that Federal sources provide less than 10 percent of States funding for elementary and secondary education. These funds consist primarily of programs such as ESEA, title I, and vocational education, where the States serve as administering agents for the Federal Government.

The new Department of Education should seek, as one of its primary and first efforts, to reduce the Federal paperwork burden. This burden stems primarily from the requirement that individual school districts report extensively on achievements expected, achievements actually experienced, and financial data associated with narrow categorical programs. California data suggests that the Federal requirements account for 80 percent of the local reporting burden and about 40 percent of the State reporting burden at the primary and secondary level.

The word "targeting" has been used in Washington. Targeting means that the Federal Government will direct its resources and its moneys at local and State governments in a manner calculated to have maximum impact on decisions which traditionally are made locally.

In practice, targeting has come to mean manipulation. With the Federal dollar, we can move State or local governments, manipulating them in the direction we think they should be going. This is a practice which ignores the traditional role of State and local governments, and which wrongly assumes that Federal agencies are better able to make wise decisions than local officials. In establishing a new Department of Education it is not our intention to advance this practice.

John C. Danforth.
William V. Roth, Jr.

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